

STATE OF NORTH CAROLINA
WAKE COUNTY

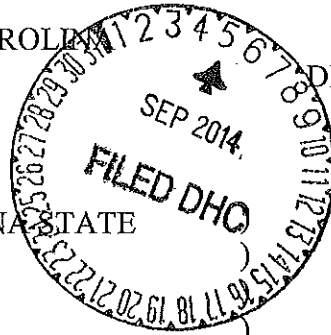
THE NORTH CAROLINA STATE
BAR,

Plaintiff,

v.

BOBBY D. MILLS,

Defendant.



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
14 DHC 26

ANSWER

Defendant, answering Plaintiff's Complaint, alleges and says as follows:

1. The allegations of Paragraph 1 of the Complaint are admitted.
2. The allegations of Paragraph 2 of the Complaint are admitted.
3. The allegations of Paragraph 3 of the Complaint are admitted.
4. The allegations of Paragraph 4 of the Complaint are admitted.
5. The allegations of Paragraph 5 of the Complaint are admitted.
6. The allegations of Paragraph 6 of the Complaint are admitted.
7. The allegations of Paragraph 7 of the Complaint are admitted.
8. The allegations of Paragraph 8 of the Complaint are admitted. Attached

hereto as Exhibit A is a true and accurate copy of the Acknowledgment of Risk executed by the
Ns (the names of the Ns have been redacted from the document).¹

9. The allegations of Paragraph 9 of the Complaint are admitted.

¹ Counsel for Defendant, in an abundance of caution, has redacted virtually all names from documents other than Defendant, his partner, and presiding Judges. Defendant consents to any proposed protective order or motion to seal documents in order to provide unredacted documents to counsel for Plaintiff.

10. The allegations of Paragraph 10 of the Complaint are admitted. Attached hereto as Exhibit B is a true and accurate copy of the Petition for Adoption of a Minor Child (the names of the Ns and K have been redacted from the document).

11. In response to the allegations of Paragraph 11 of the Complaint, it is admitted in part and denied in part. It is admitted that K's mother signed two affidavits asserting that she did not know the identity or address of K's father. Therefore it was necessary to file two proceedings to accomplish the Ns' objectives – a petition for adoption to address the rights of any identified father of K and a petition to terminate the parental rights of any unidentified father of K. Identified fathers are given notice of the adoption proceeding pursuant to G.S. §48-2-401. Separately, unidentified fathers are given notice of the termination proceeding pursuant to G.S. §48-2-402 and Chapter 7B. Attached hereto as Exhibit C is a true and accurate copy of the Affidavit of Parentage (the names of the non-counsel participants have been redacted from the document). Also attach Affidavit of Joyce Monique Jones.

12. In response to the allegations of Paragraph 12 of the Complaint, it is admitted in part and denied in part. Defendant was the primary working attorney on the adoption proceeding. DB and the paralegal TL also worked on the adoption proceeding. TL worked on both.

13. The allegations of Paragraph 13 of the Complaint are admitted.

14. The allegations of Paragraph 14 of the Complaint are admitted.

15. The allegations of Paragraph 15 of the Complaint are admitted. Attached hereto as Exhibit D is a true and accurate copy of the Summons and Complaint in 10 JT 90 (the names of the non-counsel participants have been redacted from the document).

16. The allegations of Paragraph 16 of the Complaint are admitted. At the time the allegations were made, they were legally and factually accurate. Attached hereto as Exhibit E

is a true and accurate copy of the Motion to Permit Service of Process by Publication in 10 JT 90 (the names of the non-counsel participants have been redacted from the document).

17. The allegations of Paragraph 17 of the Complaint are admitted. At the time the allegations were made, they were legally and factually accurate.

18. The allegations of Paragraph 18 of the Complaint are admitted. Attached hereto as Exhibit F is a true and accurate copy of the Affidavit of Service by Publication in 10 JT 90 (the names of the non-counsel participants have been redacted from the document).

19. The allegations of Paragraph 19 of the Complaint are admitted. It is denied that J's assertion constituted confirmation that J was in fact K's father:

- a. On April 15, 2010, J called ACH and spoke with KM of ACH. She notified ACH by e-mail. Attached hereto as Exhibit G is a true and accurate copy of an April 15, 2010, email chain (the names of the non-counsel participants have been redacted from the document).
- b. By April 21, 2010, it was apparent that K's mother had not been truthful and may have had multiple sexual partners. J and K's mother were not married. Paternity could not be factually or legally presumed from J's assertion.
- c. When J was served with the notice of the adoption on April 24, 2010, he was offered an opportunity for paternity testing. He did not respond. He had the letter providing him with instructions on what to do. J attached it to his custody complaint filed on September 24, 2010.
- d. A motion was filed (on October 14, 2010) and an Order obtained (the hearing was on October 20, 2010 and the Order was entered on November 8, 2010) before J provided a sample.
- e. Paternity was not determined until November 2010.

20. In response to the allegations of Paragraph 20 of the Complaint, it is admitted in part and denied in part. Attached hereto as Exhibit H is a true and accurate copy of an April 21, 2010, email (the names of the non-counsel participants have been redacted from the document).

- a. It is admitted that on or about April 21, 2010, K's mother identified J as K's father.
- b. It is denied that her assertion in any way constituted a reasonable factual basis to believe that J was K's father or legal confirmation that J was K's father.
- c. On April 15, 2010, when she was confronted with someone presenting himself as K's father, K's mother asked if the man who had presented himself was named Michael.
- d. By that point in time it appeared evident that K's mother could not be relied upon to tell the truth about her sexual partners or accurately identify K's father. K's mother had initially identified Calvin or Kelvin and had denied having sexual relations with any other person.
- e. Subsequently, on or about April 21, 2010, K's mother did also identify J.
- f. By then, she had identified multiple potential fathers. J and K's mother were not married. Paternity had not been confirmed, could not be presumed, and had to be confirmed with scientific testing.

21. The allegations of Paragraph 21 of the Complaint are admitted. Attached hereto as Exhibit I is a true and accurate copy of Defendant's April 23, 2010, letter to J (the names of the non-counsel participants have been redacted from the document).

22. The allegations of Paragraph 22 of the Complaint are admitted. It is admitted that J was not given personal notice of the termination proceeding. He did not call ACH in response to the notice that was published and did not answer the notice that was published. The termination proceeding was not filed for the purpose of addressing the rights of any identified father and was not directed to any identified father. Petitioners are not required to give an identified father notice of a termination proceeding directed to unknown fathers and are not required to join an identified father in a termination proceeding directed to unknown fathers.

- a. The notice identified K's mother by name and physical description.
- b. After completing discovery, Defendant later learned that J in fact lived in the area where the notice of the termination proceeding appeared at the time that the notice appeared there. Defendant does not know the source of that information.

- c. Judge Bousman made a finding that J has “acknowledged residing in Durham County, North Carolina during the period of time when the notice appeared in the newspaper.” Attached hereto as Exhibit J is a true and accurate copy of the January 19, 2011, Order entered by Judge Bousman in 10 JT 90 (the names of the non-counsel participants have been redacted from the document).

23. The allegations of Paragraph 23 of the Complaint are admitted.

Defendant does not have any personal recollection of whether there was any discussion with DH about whether to attempt to personally serve J with notice of the termination proceeding.

Personal service of the summons and petition was not required because the action was not directed to him. Petitioners are not required to give an identified father notice of a termination proceeding directed to unknown fathers and are not required to join an identified father in a termination proceeding directed to unknown fathers.

- a. PH indicates that there was a conversation in which at least PH, Defendant, and DH were present the gist of which was after analyzing the procedural posture of the two cases it was appropriate to proceed with termination proceeding as to unknowns. Paternity had not been confirmed and J will receive notice in the adoption proceeding.
- b. Attached hereto as Exhibit K is a true and accurate copy of billing records for the period (the names of the non-counsel participants have been redacted from the document; entries for “SJK” were made by DH as these bills are reprints made after DH left and her billing number was reassigned to SJK).
- c. J had presented himself, he was an identified father, he was personally served with notice of the adoption proceeding, and his rights were being properly addressed there. It did not occur to Defendant to also provide notice of the termination proceeding.

24. The allegations of Paragraph 24 of the Complaint are answered as follows upon information and belief.

- a. Defendant does not have any personal recollection of any specific conversation, but based upon subsequent review of billing records and other materials believes that DH was aware that J had presented himself as the father of K and that he would be served notice of the adoption proceeding because he was then an identified father.

- b. As a routine case management practice all cases were listed and their status was summarized on two charts – one for adoption and one for terminations. Defendant reviewed the charts with the paralegals and DH monthly.
- c. The paralegal, TL, worked on both proceedings.

25. The allegations of Paragraph 25 of the Complaint are answered as follows upon information and belief. Defendant believes DH properly addressed the rights of unidentified fathers and expected that the rights of any identified father would be addressed separately in the adoption proceeding. Even if paternity have been confirmed, it was still necessary to obtain an order addressing the rights of Kelvin, Calvin Michael and any other person K's mother identified as a possible father.

26. The allegations of Paragraph 26 of the Complaint are admitted. The action was directed to unidentified fathers and paternity was still unknown. Even if paternity have been confirmed, it was still necessary to obtain an order addressing the rights of Kelvin, Calvin Michael and any other unidentified possible father. Defendant was not the primary working attorney on that action and does not recall whether he saw the affidavit. Neither Defendant nor anyone else intended to withhold information from the court. Neither Defendant nor anyone else intended to misrepresent information to the court. It did not occur to Defendant to also provide notice of the termination proceeding. It did not seem appropriate to serve J in both actions. As a matter of practice identified persons are not joined in the termination proceeding.

27. The allegations of Paragraph 27 of the Complaint are admitted. Defendant was not the primary working attorney on that action. Defendant does not recall whether he saw the affidavit. The action was directed to unidentified fathers. The affidavit was intended to communicate that no one had responded to the notice that was published. To that extent it was correct. There was no intention to withhold information from the court to misrepresent

information to the court. J was separately being served with notice of the adoption. There was no intention for the termination to apply to J. As a matter of practice identified persons are not joined in the termination proceeding.

28. In response to the allegations of Paragraph 28 of the Complaint, it is admitted to the extent that the affidavit did not identify J and did not exclude J. Defendant was not the primary working attorney on that action. Defendant does not recall whether he saw the affidavit. The action was directed to unidentified fathers. There was no intention to withhold information from the court or to misrepresent information to the court. J was separately being served with notice of the adoption. At that time there was no intention for the termination to apply to J.

29. The allegations of Paragraph 29 of the Complaint are admitted and the affidavit provides the best evidence of the contents contained therein.

30. The allegations of Paragraph 30 of the Complaint are admitted.

31. In response to the allegations of Paragraph 31 of the Complaint, it is admitted that J was not given personal notice of the termination proceeding. There was no intention to address the rights of identified fathers in the termination action. Further, J had received a notice in the adoption proceeding. The termination action was directed to unidentified fathers. Defendant later learned through discovery that he in fact lived in the area where the notice was published at the time that the notice was published. The notice identified K's mother by name and physical description. From the Order (paragraph 22), it appeared that J had been properly served with notice of the termination proceeding.

32. The allegations of Paragraph 32 of the Complaint are admitted.

33. In response to the allegations of Paragraph 33 of the Complaint, it is denied for lack of information or belief. Defendant does not recall any specific conversation. Defendant believes that DH was aware that J had presented himself as a possible father and that he would be served notice of the adoption proceeding because he was then an identified father. Neither Defendant nor anyone else intended to withhold information from the court. Neither Defendant nor anyone else intended to misrepresent information to the court. On or about June 14, 2010, DH left the employment of the firm on maternity leave and never returned to full time employment. The issue of whether the May 26, 2010, Order applied to J did not arise until November 2010.

34. The allegations of Paragraph 34 of the Complaint are admitted. Attached hereto as Exhibit L is a true and accurate copy of the Order entered by Judge Bousman on May 26, 2010 in 10 JT 90 (the names of the non-counsel participants have been redacted from the document)..

35. The allegations of Paragraph 35 of the Complaint are admitted.

36. Defendant believed the motion to be legally and factually accurate at the time it was filed. Attached hereto as Exhibit M is a true and accurate copy of the Motion for Consent not Necessary filed on November 8, 2010, in 10 SP 364 (the names of the non-counsel participants have been redacted from the document).

- a. The issue of whether the May 26, 2010 order applied to J did not arise until November 2010. On or about June 14, 2010, DH left the employment of the firm on maternity leave and never returned to full time employment. We were not in regular communication with her. Defendant did not have the benefit of DH's input before filing the motion.
- b. In November 2010 it appeared that J had received notice of the termination proceeding because he in fact lived in the area where the notice appeared at the time that the notice appeared there. The notice identified K's mother by name and physical description. From the plain reading of the order, it appeared that J had been properly served with notice of the termination proceeding.

- c. Defendant believes DH will remember a conversation after Defendant reviewed the termination proceeding order and asked her why it should not apply to J.
- d. On December 3, 2010, opposing counsel filed a motion in the termination proceeding seeking relief from the May 26, 2010 order. Attached hereto as Exhibit N is a true and accurate copy of the Motion for Relief from Judgment filed in 10 JT 90. (the names of the non-counsel participants have been redacted from the document).
- e. As soon as Defendant received the motion, he reviewed the file in the termination proceeding, contacted opposing counsel, acknowledged the Order should not apply to J, and offered to stipulate to setting aside the May 26, 2010 Order as to J. Opposing counsel declined Defendant's suggestion that the termination Order be set aside as to J and requested that it be set aside in its entirety. Attached hereto as Exhibit O is a true and accurate copy of the December 2010 email chain with opposing counsel. (the names of the non-counsel participants have been redacted from the document).
- f. On January 7, 2011, Defendant filed a reply and motion in the termination proceeding acknowledging the error and joining in a request that J be relieved of application of the May 26, 2010 order. Attached hereto as Exhibit P is a true and accurate copy of this Reply and Motion in 10 JT 90. (the names of the non-counsel participants have been redacted from the document).
- g. In addition on January 14, 2011, Defendant filed an amended motion in the adoption proceeding which withdrew the assertion that J.'s rights had been terminated. Attached hereto as Exhibit Q is a true and accurate copy of the Amended Motion for Consent not Necessary filed in 10 JT 90 (the names of the non-counsel participants have been redacted from the document).
- h. Attached hereto as Exhibit R is a true and accurate copy of the transcript of the hearing before Judge Christian on January 6, 2011, in 10 CVD 16180 (the names of the non-counsel participants have been redacted from the document).
- i. Again, Judge Bousman entered the Rule 60 Order in 10 JT 90 on January 19, 2011 (see Exhibit J). The Order findings include the following (with party names redacted):
 - "It appears from the pleadings that Mr. Mills primarily worked on the adoption action and that _____ primarily worked on the termination of parental rights action. Petitioner's counsel credits the mistakes made in this proceeding that resulted in the May 26, 2010 order being applied to _____ to the fact that two different attorneys worked on different aspects of this matter. Petitioner's failure to notify the Court in this proceeding about _____ was the result of a failure to

communicate between the attorneys for Petitioner. No evidence of fraud or intentional misconduct has been presented to the Court.” (paragraph 32)

- “_____ is entitled to relief as provided in Rule 60(b)(1) due to the mistake, inadvertence, and/or excusable neglect of Petitioner's counsel.” (paragraph 35).
- “Since _____ alleged that the biological father of her child was Calvin or Kevin, persons whose full identities and whereabouts were not known to her and since these persons were properly served in this matter, the Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 should remain in full force and effect as to the parental rights of Calvin or Kevin or Any Unknown or Possible Parent, but not _____.” (paragraph 36).

WHEREFORE, Defendant respectfully prays that:

1. There be no disciplinary action taken against Defendant and the Complaint be dismissed;
2. The costs of this action be taxed against Plaintiff; and
3. For such other and further relief as may be deemed just and proper.

This the 5 day of September.

BAILEY & DIXON, LLP

By: _____

David S. Coats, N.C. State Bar No. 16162

Attorneys for Defendant

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By: Alan Schneider / By BSC w/consent

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ACKNOWLEDGMENT OF RISK

We, [REDACTED] and [REDACTED] the undersigned prospective adoptive parents of [REDACTED], born on January 9, 2010, understand and acknowledge that this proposed adoptive placement involves certain legal and medical risks. We have been informed of the following potential risks and have been advised that we may seek independent legal and medical counsel to advise us regarding these risks.

We understand that information provided by birth parents to the agency regarding paternity and health and medical history may be incomplete or inaccurate. We further understand that although A Child's Hope has made reasonable efforts to obtain and provide information that is available from birth parents and sources to which the birth parents direct them, we have also been informed that A Child's Hope has not undertaken to independently verify information provided by birth parents or obtained from other sources in relation to this placement.

We understand that the legal risks include the risk that a birth parent who consents to adoptive placement or executes a relinquishment for adoption may revoke his/her consent. A consent to the adoption of a child may be revoked within seven (7) days following the day on which the consent by a parent is executed, inclusive of weekends and holidays. If the final day of the revocation period falls on a weekend or North Carolina or federal holiday, then the revocation period extends to the next business day. Notice may be given by overnight or certified mail and is complete upon deposit. We understand that while the revocation period has expired and no revocation has been communicated to A Child's Hope, it is still possible that a revocation may be received by mail.

We understand that if a person who has physical custody places the minor child with the prospective adoptive parent and thereafter revokes a consent pursuant to the statute, then the prospective adoptive parent shall, immediately upon request, return the minor child to that person. The revocation of the consent to adopt restores the right to physical custody and any right to legal custody to the person who placed the minor and divests the prospective adoptive parent of any right to legal or physical custody and any further responsibility for the care and support of the minor. We further understand and have been advised that in any subsequent legal proceeding, the court shall award reasonable attorneys' fees to the person who revoked if the prospective adoptive parent fails upon request to return the minor child.

We have been informed that the birth mother has provided A Child's Hope with the following information related to the person she believes to be the birth father: birth father is an African American male between 24 and 27 years old. He is six feet tall and has black hair and brown eyes. The birth mother describes him as having a dark complexion and a medium build. She does not know his weight. She states that she met the birth father at a party in another city and they had consensual sex but did not exchange phone number or any other information, other than first names. She has identified the name of the hotel where they had sex and said that she has had no other information on him. She states that she has never talked to him again and that none of her friends know him and she does not know how to contact him.

EXHIBIT

A

A Child's Hope will attempt to locate the birth father. The birth mother is not aware of any contact information for him. She states that he is not aware of the pregnancy and adoption plan. She also states that he has not acknowledged paternity, communicated with her or provided support to or for her or the baby.

The Agency will try to locate the identified birth father, obtain relinquishment, and cooperation with paternity testing. If we cannot locate the identified birth father, then it will be necessary to file a petition for termination of parental rights as to the identified birth father and any unknown parent or possible parent of the child. It will be necessary to serve the identified birth father and any unknown parent or possible parent with process by publication of a legal notice in the state or country where he was last known to reside. The agency may also choose to publish in a second location if that is deemed appropriate.

Paternity of this child has not been established as of the time of placement of this child. It cannot be predicted at this time whether it will be possible to confirm paternity of this child. The physical appearance of the child is not an accurate means of determining the race of the parents. The birth mother's own racial heritage will have a significant impact on the appearance of the child. In the absence of a scientific or judicial determination of paternity, we have no choice but to rely upon the representations of the mother regarding the race of the child's father. Unless paternity is determined, we cannot be any more certain of the child's parentage than the birth mother herself.

In the event that paternity is not confirmed for the identified birth father, the agency will try to communicate with the birth mother about any other possible birth fathers, will attempt to locate the other potential named birth father, obtain relinquishments, and cooperation with paternity testing. If we cannot locate the identified birth father, then it will be necessary to file a petition for termination of parental rights as to the identified birth father and any unknown parent or possible parent. It will be necessary to serve the identified birth father and any unknown parent or possible parent with process by publication of a legal notice in the state or country where he was last known to reside. The agency may also choose to publish in a second and third location if that is deemed appropriate. We understand that there are additional legal fees for termination of parental rights and the publication costs and we agree to pay those if it is necessary to terminate as to any additional birth fathers.

When a birth father has not executed a consent to the adoptive placement, the birth father's paternal rights must be terminated under Article 24B of Chapter 7A of the North Carolina General Statutes or by a court of competent jurisdiction in another state or there must be a determination that his consent is not necessary pursuant to North Carolina General Statutes §§ 48-3-601 and 48-3-603 due to his failure to take steps to preserve his rights. We have been advised of the risk resulting from not knowing the identity of the birth father including the risk that an unknown father might seek to set aside the adoption at a later date. We have been advised that it is necessary to publish a notice to any unknown or potential fathers and that an unknown birth father's paternal rights must be terminated under Article 24B of Chapter 7A of the North Carolina General Statutes or by a court of competent jurisdiction in another state.

We have been advised that A Child's Hope recommends that we engage the law firm of Herring Mills & Kratt, PLLC to initiate any required legal action for our adoption or to terminate parental rights of the birth parents. We have been advised that Parker Herring and Bobby Mills are principals in A Child's Hope and Herring Mills & Kratt, PLLC. We understand that we have the option to choose to be represented by another law firm. Having been advised of these circumstances and our options, we have elected to (Choose one of the following by initialing your selection and striking through the other alternative):

- ☒ 1) Be represented by the law firm of Herring Mills & Kratt, PLLC.
- ☐ 2) Obtain representation by another law firm of our choice.

We understand that there are also medical and genetic risks associated with all adoptive placements. Health history information provided by birth parents may be unavailable or inaccurate. While every effort will be made to provide health records from the birth parents, those records may be incomplete and inconclusive. We have not relied upon A Child's Hope for evaluation or review of health history or medical information related to this placement. We understand that A Child's Hope has not undertaken to independently verify health history or medical information provided by birth parents or obtained from other sources in relation to this placement. We have been advised that we may have a physician of our choice review health history or medical information related to this placement.

We have been informed that the birth mother has stated: she had an initial visit in June to confirm pregnancy and attempted to be seen in October at an Emergency Room and on that occasion was monitored by a fetal monitor. Additionally, she has had one prenatal visit in the Emergency Room on November 21. She states that she smokes about five cigarettes a day, and has had a "few drinks -- about 3" occasionally approximately every other month before finding out she was pregnant in June. The hospital confirmed after the baby's birth that HIV was negative for the birth mother and the baby's drug screen was negative. Birth mother tested positive for Group B strep after delivery. Baby was monitored for 48 hours. Baby was noted to be in good health and eating well. Birth mother is covered by Medicaid.

The birth mother has provided some family medical history. We have been provided copies of the DSS Forms 5102 Non-identifying Background Information and 5103 Health History Part I & II provided by the birth mother, prenatal records, and the hospital medical records for the birth mother and baby. The birth mother states that she has had no negative mental health history. Her family medical history shows that her mother had lung cancer and a brain tumor at age 56 and her father had a heart attack.

Thorough medical background is currently unavailable for the identified birth father. If the identified birth father is contacted, attempts will be made to obtain complete information if he is cooperative. We acknowledge that there may be no additional medical information available on the birth father.

The baby was born on January 9, 2010. At birth he weighed 6 lbs 13 oz and he measured 20 inches. His APGAR scores were not obtainable due to his being born at home. He has black hair and a dark complexion. The baby spent approximately a week in respite care following discharge from the hospital. No significant health concerns have been reported for the child as of the time of this placement by the respite care provider. Although the hospital submitted the newborn screen (PKU test) to the State laboratory for processing, we acknowledge that these tests are difficult to obtain due to the confidentiality of adoption. We acknowledge that the agency recommends that we obtain another newborn screen (PKU test) by our own pediatrician.

We acknowledge that we have been informed that there are state and federal funds available to assist adoptive parents in providing care for eligible children with special health or behavioral conditions. These funds are generally referred to as adoption assistance funds and are intended to assist with the financial burden of caring for a child which has, or is predisposed to develop, special health or behavioral conditions. Adoption assistance may include monthly reoccurring payments, vendor payments, and or reimbursement of non reoccurring adoption legal expenses. We understand that in order to receive adoption assistance benefits, including benefits for any potential future condition or handicap, those benefits must be granted before the final adoption decree has been entered. We understand that the failure to obtain an award of adoption assistance benefits before the entry of the final decree of adoption will likely result in a permanent loss of those benefits. We understand that A Child's Hope cannot apply for those benefits for us and that it is our responsibility to apply for those benefits if we wish to do so.

We understand that A Child's Hope has legal custody of this child and has the right to exercise physical custody of this child. A Child's Hope is delegating to us the responsibility of exercising physical care and custody of this child. We agree to provide for the child's physical care and to take all reasonable measures necessary to provide for the child's health and general welfare.

We agree to notify A Child's Hope as soon as possible of any adverse change in the child's health that requires medical treatment by a physician or other health care services provider. We agree to immediately obtain health care insurance coverage for any child placed with us for adoption and to be responsible for all health care expenses for any such child. We agree to indemnify and hold harmless A Child's Hope from all liability arising by reason of any medical or health condition of the child, known or unknown, whether currently existing or discovered at some later date.

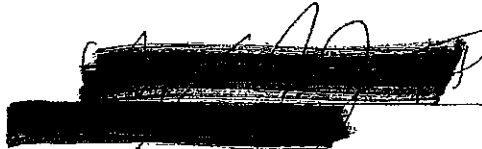

We understand that some birth mothers receive financial assistance from A Child's Hope for actual, ordinary living expenses during her pregnancy and continuing through the period ending six weeks after delivery. We understand that A Child's Hope has provided us with a good faith estimate of the amounts expended to date and those that are anticipated within the six weeks following delivery. We have been informed that any amounts that we have paid to A Child's Hope for the benefit of the birth mother of this child are essentially a gift. In the event of a revocation of a relinquishment by a birth parent, we understand any amounts paid cannot be recovered either from the birth parent(s) or A Child's Hope.

We understand that agency adoptive placements in North Carolina are confidential. All records are sealed and may not be disclosed. We understand that A Child's Hope, and its agents are not permitted to release the name, address or any other information that could reasonably be expected to lead directly to our identity, the identity of any child that we adopt, the identity of a birth parent or any biological sibling or grandparent of any child that we adopt, unless we and the birth mother sign a DSS 5218 Consent to Release Identifying Information prior to the finalization of the

adoption. We understand that if we elect to share identifying information with a birth parent for any child that we adopt we do so at our own risk and not at the direction of A Child's Hope.

We understand that post-placement reports are required to finalize this adoption. We agree to cooperate fully with the Agency, or any other supervising entity, to accomplish the post-placement investigation, report to the court and in any action for termination of parental rights.

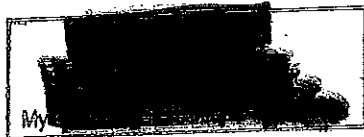
This the 20th day of January, 2010.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, [REDACTED], a Notary Public for said county and state, do certify that on this 20th day of January, 2009, before me, the aforesigned, [REDACTED], personally appeared, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and seal



[REDACTED]
NOTARY PUBLIC
[REDACTED]

MY COMMISSION EXPIRES: 11-16-2013

STATE OF NORTH CAROLINA
COUNTY OF WAKE

WAIVER OF CONFLICTS

We, the undersigned, [REDACTED], do understand:

1. We have signed an Employment Agreement to contract with the law office of Herring, Mills and Kratt, PLLC. Herring, Mills and Kratt, PLLC is representing our interests in a contested adoption action involving the minor child, [REDACTED]
2. We understand that the law office of Herring, Mills and Kratt, PLLC also represents the interests of the adoption agency, A Child's Hope of North Carolina in the same contested adoption action involving the minor child [REDACTED]. Due to the dual representation, there is a potential conflict of interest in this matter.
3. We do not believe any conflict of interest actually occurs as a result of the dual representation.
4. We do not believe any conflict of interest will occur in the future as a result of the dual representation.
5. We understand that we have the right to seek other legal counsel, and we have elected not to do so.
6. We hereby waive any conflict or potential conflict that exists or may arise as a result of the dual representation, and we agree that Herring, Mills and Kratt, PLLC, will represent our interests in the contested adoption of [REDACTED]

This the 18th day of October 2010.

[REDACTED]
[REDACTED]

10.18-10
Date

[REDACTED]
[REDACTED]

10.18-2010
Date

Wake County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: [REDACTED]

Date: 10/18/10



By: [REDACTED]

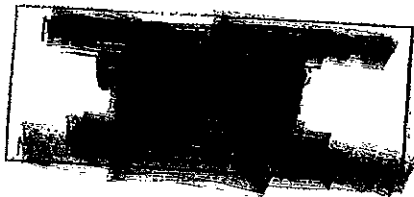
Notary Public, type or print name

My commission expires: Feb. 24, 2015

Wake County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: [REDACTED]

Date: 10/18/10



By: [REDACTED]

Notary Public, type or print name

My commission expires: Feb. 24, 2015

STATE OF NORTH CAROLINA

Wake COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
BEFORE THE CLERK

10 SP 364

[REDACTED]
(Full name of petitioning father)

[REDACTED]
(Full name of petitioning mother)

PETITION FOR ADOPTION
OF A MINOR CHILD

(Not Stepparent)

FOR THE ADOPTION OF

[REDACTED]
(Full name by which adoptee is to be known if adoption granted)

To the Honorable Clerk of the Superior Court of Wake County:

We (I), the undersigned, [REDACTED] male, and
(Name of petitioning father) (Sex)

[REDACTED] female, whose address is
(Name of petitioning mother) (Sex)

[REDACTED]
(Street & Number)

[REDACTED]
(City)

[REDACTED]
(County)

[REDACTED]
(State) (Zip Code)

do hereby petition the Court to adopt [REDACTED] a male minor
(Name by which the adoptee is to be known) (Sex)
child, and do represent to the Court:

1. That the petitioner(s) herein seeking adoption:

- ☒ has/have lived in or been domiciled in North Carolina for at least six consecutive months immediately preceding the filing of this petition; OR
- ☐ has/have lived in or been domiciled in North Carolina for less than six consecutive months prior to filing this petition, but the adoptee has lived in North Carolina for at least six consecutive months immediately preceding the filing of this petition or from birth; OR
- ☐ does/do not reside or have domicile in North Carolina, but is/are petitioning to adopt a child currently in the legal custody of a licensed NC adoption agency or county department of social services; OR
- ☐ does/do not reside or have domicile in North Carolina, but is/are petitioning to adopt a child directly placed with the petitioner(s) by the birth parent(s) and the child has lived in North Carolina for at least six consecutive months immediately preceding the filing of this petition or from birth and continues to reside in North Carolina at the time of the filing of this petition.

2. That any required preplacement assessments have been completed or updated within the 18 months before the adoptee's placement for the purpose of adoption or an affidavit is attached stating why the assessment is not available.

3. ☒ That all necessary consents, relinquishments, or terminations of parental rights have been obtained and have been filed or will be filed as additional documents with the petition; AND/OR

EXHIBIT

B

☐ The names of any individuals whose consent, relinquishment, or termination of rights may be necessary but have not been obtained are listed in an attached document.

4. That the adoptee was born on in the State/Country of North Carolina on or about the 9th day of January in the year 2010.

5. That as far as petitioner(s) are able to ascertain, said minor child is the owner of or is entitled to personal property of the value of \$ -0- and real property of the value of \$ -0-, described as follows:

6. That said adoptee was placed for the purpose of adoption with the petitioner(s) by:

☒ Agency ☐ Parents ☐ Guardian of the Person on the 20th day of January in the year 2010.

If placed by agency, give name and address of agency consenting to the placement A CHILD'S HOPE, LLC,
P.O. Box 1677, Raleigh, North Carolina 27602

7. If the adoptee is not in the physical custody of the petitioner(s), state the reason why the petitioner does not have physical custody and the date and manner in which the petitioner intends to acquire custody:

8. That the provisions of the Interstate Compact on the Placement of Children, N.C.G.S. 7B - 3800 et. seq., were followed, or a statement is attached describing the circumstances of non-compliance, if the adoptee was brought into this State from another state for purposes of adoption.

9. That the affidavit required by the Uniform Child Custody Jurisdiction and Enforcement Act, N.C.G.S. 50A-101 et. seq., if applicable, is attached to the petition.

10. That petitioner(s) seeking adoption herein is/are ☐ single; or ☒ married. If married, give date of petitioner's marriage September 14, 2002. The petitioner(s) is/are a fit person(s) to have the custody, supervision, and training of said child, and have the resources, including those available under a subsidy for an adoptee with special needs, to provide for the care and support of the adoptee.

11. That petitioner(s) desire(s) and agree(s) to adopt and treat the adoptee as the petitioner's lawful child and desire(s) that the relationship of parent(s) and child be established between them/him/her and said child; and upon adoption, the said adoptee shall inherit real and personal property by, through, and from the said petitioner(s) in accordance with the statutes of descent and distribution.

12. That the petitioner(s) is/are ☐ related or ☒ not related to the said child specified in G.S. 48-3-301 (b) as follows:

13. Enter any special allegation not yet given, such as child 12-years of age or older, whether spouse is deceased or adjudged incompetent, etc.

WHEREFORE, YOUR petitioner(s) pray(s) that the relationship of parent(s) and child be established between petitioner(s) and said adoptee; and that the name of said adoptee be changed to:

Maximilian Dennis Napler

as hereinabove written and authorized by law.

Documents for birthmother: Relinquishment of Minor;
Attachments to petition (N.C.G.S. 48-2-305):
Affidavit of Parentage, DSS-5102-Non-Identifying, Background Information, DSS-5103-
Health History, Indian Child Welfare Act Affidavit. Original Preplacement for adoptive parents.
Mother's copy of birth certificate.

This the 20th day of January, 2010

[Redacted Signature] Petitioner's Signature
[Redacted Signature] Petitioner's Signature

[Redacted Name] and [Redacted Name]
(Full name of petitioning father) (Full name of petitioning mother)

being duly sworn, depose and say that he/she/they has (have) read the foregoing Petition and that the facts set forth therein are true to his/her/their own knowledge, except as to matters therein set forth upon information and belief, and as to such matters he/she/they believe(s) them to be true.

This 20th day of January, in the year 2010

[Redacted Signature] Petitioner's Signature
[Redacted Signature] Petitioner's Signature

Subscribed to and sworn to before me this 20th day of January, 2010

(SEAL) [Redacted Seal]
[Redacted Signature] Notary Public
Printed Name of Notary Public
My commission expires 11-16-2013

Bobby D. Mills	Herring Mills & Kratt, PLLC, Post Office Box 1677
Attorney for petitioners	(Mailing Address)
(919) 821-1860	Raleigh, North Carolina 27602
(Telephone Number)	(City or Town) (Zip Code)

NOTE: The DSS-1800 is prepared in triplicate. The original form is held in the Office of the Clerk of Superior Court. A duplicate original is forwarded, along with originals of all other documents filed in proceeding, within ten days following the entry of the Decree of Adoption by the Clerk of Court to the Division of Social Services, State Department of Health and Human Services; and a copy is attached to the Order for a Report to the Court, directed to the county department of social services or licensed private child-placing agency.

STATE OF NORTH CAROLINA

WAKE COUNTY

10 SP 364

FILED

JAN 23 2 3 53

WAKE COUNTY, NC

AFFIDAVIT OF PARENTAGE

I, the undersigned, [REDACTED], being duly sworn,
[Mother] [Father] [Guardian] [Other Knowledgeable Individual]

declare the following persons to be the parents or possible parents of [REDACTED],
(Original Name of Child)

a minor Male child, who was born on the 9th day of January, 2010
(Sex) ^{du}

[or expected to be born approximately _____] in High Point
(City or Town)
Gulford North Carolina
(County) (State)

Mother: [REDACTED] Single
(Name) (Marital status at time of child's birth)
[REDACTED]
(Last known address)

Biological Father: Calvin or Kevin Doe Unknown
(Name) (Marital status at time of child's birth)
Unknown
(Last known address)

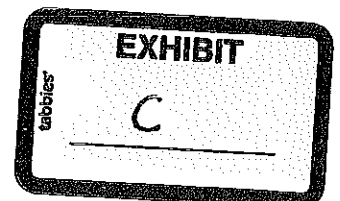
(If more than one possible)

Biological Father: _____
(Name) (Marital status at time of child's birth)

(Last known address)


Legal Father: _____
(Name) (Marital status at time of child's birth)

(Last known address)





Source of my knowledge (if not signed by placing parent or guardian): _____

FURTHER, it is the intent of the undersigned to place the above-named child for adoption in accordance with Chapter 48 of the General Statutes of North Carolina.


Signature of _____
(Mother) (Father) (Guardian)
(Other Knowledgeable Individual)

STATE OF North Carolina
COUNTY OF Guilford

I, , do hereby certify
(Name of official)
that  personally appeared before me this day
(Name of parent or guardian)

and acknowledged the due execution of the foregoing instrument.

I certify that I, the undersigned, am a Notary Public or one otherwise empowered to acknowledge signatures under Chapter 47 of the General Statutes of North Carolina.

Witness my hand and seal this the 11 day of January, 2010.

(SEAL)



Signature



Title

Notary Public

My commission expires September 3, 2013

NOTE:

One Form DSS-1809 is obtained at the time the Consent to Adoption by Parent, Guardian Ad Litem, or Guardian (DSS-1802) or Relinquishment to Adoption (DSS-1804) is signed. This Affidavit of Parentage and the Consent or Relinquishment are filed with the Clerk of Superior Court at the time the Petition for Adoption is filed. The Clerk then forwards these documents to the Division of Social Services, State Department of Health and Human Services.

G.S. 48-3-206 provides that in the event the placing parent or guardian is unavailable, this information may be provided by another knowledgeable individual who should then sign this form and indicate the source of his knowledge. This affidavit is not necessary when an agency acquires legal and physical custody of a minor for adoption by court order terminating the parental rights of the parent or guardian.



STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 09 SP _____

AFFIDAVIT OF
[REDACTED]

I, the undersigned, [REDACTED] being duly sworn, do depose and say:

1. I am the mother of [REDACTED] who was born on the
9 day of January, ²⁰¹⁰ ~~2009~~, in High Point, Guilford County, State of North Carolina. I
am over the age of 18 and I am of sound mind. I have a permanent address of 243 North Point
Avenue, Apt. S, High Point, North Carolina 27262.

2. On January 11, 2010, I surrendered custody of my infant child to A
Child's Hope, LLC and executed a relinquishment, pursuant to G.S. § 48-3-701 *et. seq.*, for
purposes of placing the baby for adoption with a family selected by the agency.

3. This child was conceived on or about February 28, 2009 in Durham, North
Carolina. My girlfriend and I were attending a motel party at the Red Roof Inn on Hwy 54 in
Durham.

4. I believe the man known to me only as Calvin or Kevin (hereinafter "Calvin or
Kevin Doe") is the biological father of this child.

5. I first met Calvin or Kevin Doe in February 28, 2009. We had a one time sexual
encounter that resulted in my becoming pregnant with this child. I haven't seen or heard from
Calvin or Kevin Doe since that night.

6. I first discovered I was pregnant in May of 2009. I wasn't feeling well so I took a
home pregnancy test which came back positive.

7. Calvin or Kevin Doe is not aware of the pregnancy or the adoption plan. I have
not had contact with him since the time of conception.

8. Calvin or Kevin Doe is a African American male who is approximately 24-28 years old, 6'0" tall, medium build, dark complexion with black hair and brown eyes.

9. I have not had a sexual relationship with anyone other than Calvin or Kevin Doe in the month before or after the time of conception on February 28, 2009.

10. I and this child have been living separate and apart from Calvin or Kevin Doe or any other potential birth fathers of this child.

11. I am not now, nor ever have I ever been, married to the individual known to me as Calvin or Kevin Doe. I have not been married to any person at any time since this child was conceived and the time of signing this affidavit.

12. Neither Calvin or Kevin Doe, nor any other potential father of this child has offered or provided me with financial support, support with medical expenses and other tangible means of support during this pregnancy.

13. Neither Calvin or Kevin Doe, nor any other potential birth father(s) of this child has or have communicated or attempted to communicate with me during my term of pregnancy.

14. To the best of my knowledge, I do not have Native American Heritage in my family. I am not eligible for membership in any federally recognized Native American tribe.

15. To the best of my knowledge, neither Calvin or Kevin Doe, nor any potential father(s) of this child is in service on active duty with any branch of the United States Armed Services or Coast Guard.

16. I am not emotionally or financially prepared to provide any emotional or financial support for this child and I believe that it is in the best interest of this child that he is adopted and that any potential birth father's rights be terminated.

17. North Carolina is the home state of this child. I have not participated as a party in any action concerning custody of the minor child in this or any other jurisdiction. I have no information of any custody proceedings concerning the minor child pending in a court of this or

any other state. I know of no person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the minor child.

18. Having been duly sworn, I do depose and say that I am the Affiant named above.
I have read the foregoing and the same is true of my own personal knowledge.

This the 11 day of January, ²⁰¹⁰~~2009~~ rw

[REDACTED]

STATE OF NORTH CAROLINA
COUNTY OF Guilford

I, [REDACTED], notary public for said county and state certify that [REDACTED]
[REDACTED] personally appeared before me this day and acknowledged to me that she
voluntarily signed the foregoing document for the purpose stated therein and in the capacity
indicated.

This the 11 day of January, ²⁰¹⁰~~2009~~

[REDACTED]

Official Signature of Notary

(OFFICIAL SEAL)

[REDACTED]

Lesha P. Workman

My Commission Expires: September 3, 2013

STATE OF NORTH CAROLINA

County

File No.

10 JJ 90

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name Of Juvenile

[REDACTED]

SUMMONS IN PROCEEDING FOR TERMINATION OF PARENTAL RIGHTS ☐ ALIAS AND PLURIES SUMMONS

G.S. 7B-1106

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

Name And Address Of Respondent 1

Calvin or Kevin or Any Unknown
Or Possible Parent
Address Unknown

Name And Address Of Respondent 2

A Child's Hope
Two Hannover Square, Ste. 1860
Raleigh, NC 27601

☐ Parent (mother) ☒ Parent (father) ☐ Guardian ☐ Custodian
☐ DSS or other child-placing agency

☐ Parent (mother) ☐ Parent (father) ☐ Guardian ☐ Custodian
☒ DSS or other child-placing agency

Name And Address Of Respondent 3

Name And Address Of Respondent 4

☐ Parent (mother) ☐ Parent (father) ☐ Guardian ☐ Custodian
☐ DSS or other child-placing agency

☐ Parent (mother) ☐ Parent (father) ☐ Guardian ☐ Custodian
☐ DSS or other child-placing agency

TO EACH OF THE RESPONDENT(S) NAMED ABOVE:

You are summoned and notified to answer the attached petition in which the petitioner asks the Court to terminate the parental rights of the above named parent(s) to the above named juvenile. Any written answer to the petition must be filed within thirty (30) days after service on you of this summons and a copy of the petition. A copy of the answer must also be served on the petitioner or his/her lawyer.

The Court will conduct a hearing to determine whether one or more grounds alleged in the petition for terminating parental rights exist. If the Court finds that one or more grounds exist, the Court will proceed at that hearing or a later hearing to determine whether parental rights should be terminated. Notice of the date, time and location of the hearing will be mailed to you by the Clerk of Superior Court after you file an answer or thirty (30) days from the date of service if you do not file an answer.

ADDITIONAL NOTICE TO THE PARENT(S) NAMED ABOVE:

If you do not file a written answer to the attached petition with the Clerk of Superior Court within thirty (30) days, the Court may terminate your parental rights.

You have a right to be represented by a lawyer in this case. If you want a lawyer and cannot afford one, the Court will appoint a lawyer for you. If you are represented by a lawyer appointed previously in an abuse, neglect or dependency case, that lawyer will continue to represent you unless the Court orders otherwise. If you are not represented by a lawyer and want a court appointed lawyer, you are encouraged to contact immediately the following lawyer who has been temporarily assigned to represent you. At the first hearing, the Court will determine whether you qualify for a court-appointed lawyer. If you do not qualify, the lawyer named below will be released. (NOTE: If a lawyer is appointed for you and if the Court terminates your parental rights, you may become liable for repayment of the lawyer's fees, and a judgment for the amount of the fees may be entered against you.)

You are entitled to attend any hearing affecting your parental rights. As described above, the Clerk of Superior Court will mail to you the date, time, and location of the hearing.

Name And Address Of Mother's Lawyer

Name And Address Of Father's Lawyer

[REDACTED]

Telephone Number Of Lawyer

919-821-1860

Telephone Number Of Lawyer

919-573-1895

Name And Address Of Lawyer For Petitioner

Bobby D. Mills & Donna A. Hart
Two Hannover Square, Ste. 1860
Raleigh, NC 27601

Date Summons Issued

3-22-2010

Time

3:30

☐ AM ☒ PM

Signature

U. Mary J. [Signature]

☒ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the petitioner, the time within which this Summons must be served is extended sixty (60) days.

EXHIBIT

A

tabbies

RETURN OF SERVICE

I certify that this Summons, a copy of the petition, and any attached Affidavit As To Status Of Minor Child were received and served by personally delivering to each person named below a copy of the same.

RESPONDENT 1

Date Served

Name Of Respondent

- ☐ By delivering to the respondent named above a copy of the summons and petition.
- ☐ By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- ☐ Respondent WAS NOT served for the following reason:

RESPONDENT 2

Date Served

Name Of Respondent

- ☐ By delivering to the respondent named above a copy of the summons and petition.
- ☐ By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- ☐ Respondent WAS NOT served for the following reason:

RESPONDENT 3

Date Served

Name Of Respondent

- ☐ By delivering to the respondent named above a copy of the summons and petition.
- ☐ By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- ☐ Respondent WAS NOT served for the following reason:

RESPONDENT 4

Date Served

Name Of Respondent

- ☐ By delivering to the respondent named above a copy of the summons and petition.
- ☐ By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- ☐ Respondent WAS NOT served for the following reason:

Date Received

Date Of Return

County

Name Of Sheriff

Deputy Sheriff Making Return

STATE OF NORTH CAROLINA 2010 MAR 22 10:49 AM
COUNTY OF WAKE DISTRICT COURT DIVISION
WAKE COUNTY, C.S.C. FILE NO. 10 JT 90
BY: _____

Petitioner, A Child's Hope, LLC, pursuant to N.C.G.S. §§48-3-201(d) and 7B-1103(a)(3), hereby files this Petition for the Termination of Parental Rights of Respondents Calvin or Kevin or Any Unknown or Possible Parent, and respectfully shows the Court:

5. On January 11, 2010, A Child's Hope, LLC accepted the Relinquishment of [REDACTED] as shown by a copy of the Acceptance of Relinquishment of Minor For Adoption By Parent or Guardian attached hereto as Exhibit "C" and incorporated herein by reference.

6. On January 20, 2010, the Agency placed the child with an adoptive couple that has a completed pre-placement assessment recommending them for adoptive placement. The child resides with the adoptive parents in Wake County, North Carolina.

7. On January 20, 2010, the prospective adoptive parents filed a Petition for Adoption in Wake County, North Carolina to adopt this child.

8. In her Affidavit which is attached hereto as Exhibit "D" and incorporated herein by reference, [REDACTED] identifies "Calvin or Kevin" as the biological father of this child.

9. In her Affidavit, [REDACTED] states that conception took place on or about February 28, 2009 at the Red Roof Inn on Highway 54 in Durham, North Carolina.

10. [REDACTED] states that this is the first time that she met "Calvin or Kevin" and that they had a one time sexual encounter that resulted in her becoming pregnant and she hasn't seen or heard from "Calvin or Kevin" since this night.

11. [REDACTED] was not married at the time that this child was born or within the ten months immediately preceding the birth of this child. Paternity of this child has not been determined judicially or by scientific means.

12. The whereabouts of Calvin or Kevin or Any Unknown or Possible Parent are not known and cannot with the exercise of due diligence be determined.

13. The parental rights of Calvin or Kevin or Any Unknown or Possible Parent are subject to termination pursuant to N.G.G.S. §7B-1111(a)(5) in that prior to the filing of this Petition no Any Unknown or Possible Parent has:

- a. Established paternity judicially or filed an affidavit of paternity of the child. A sworn statement from the North Carolina Department of Health and Human Services Division of Social Services is attached hereto as Exhibit "E."

- b. Legitimated the child pursuant to N.C.G.S. §49-10 or filed a petition to do as shown by the Affidavit of Civil Record Search attached hereto as Exhibit "F" and incorporated herein by reference;
- c. Legitimated the child by marrying the birthmother as shown by [REDACTED] Affidavit, attached hereto as Exhibit "D;" or
- d. Provided substantial financial support or consistent care with respect to the child and the mother as shown by [REDACTED] Affidavit, attached hereto as Exhibit "D."

14. Considering the factors set out in N.C.G.S. §7B-1110, it is in the best interest of the minor child that the parental rights of Calvin or Kevin or Any Unknown or Possible Parent be terminated in that:

- a. No unknown or possible parent has established paternity judicially or filed an affidavit of paternity of the child.
- b. No unknown or possible parent has legitimated the child pursuant to N.C.G.S. §49-10 or filed a petition to do.
- c. No unknown or possible parent has legitimated the child by marrying the birthmother.
- d. No unknown or possible parent has provided substantial financial support or consistent care with respect to the child and the mother.
- e. The biological mother has relinquished custody of the child to Petitioner for purposes of adoptive placement. Her seven-day revocation period expired and no revocation was filed.
- f. The prospective adoptive parents have had physical custody of the child since January 20, 2010 and have filed a Petition for Adoption seeking to adopt this child.
- g. The child was born on January 9, 2010 and is now approximately 3 months old.
- h. The biological mother has indicated that she believes that it is in the best interest of the child to be adopted by the prospective adoptive parents and that the rights of any unknown or possible parent of the child should be terminated.
- i. The biological parents have not had custody of the child and have not created a bond with the child.

- j. Post placement reports based upon home visits indicate that the prospective adoptive parents are loving and nurturing and provide a stable environment that meets the child's needs.
- k. Post placement reports further indicate that the child is thriving and meeting developmental guidelines.
- l. It appears likely that the Petition for Adoption will be granted.
- m. The termination of parental rights will aid in the accomplishment of the placement of this child.

15. This Court has jurisdiction to make a child custody determination with regard to this child pursuant to N.C.G.S. §50A-3 as shown above.

16. Calvin or Kevin or Any Unknown or Possible Parent is not in service on active duty with any branch of the United States Armed Services or Coast Guard.

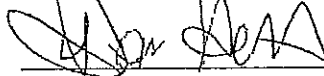
17. Calvin or Kevin or Any Unknown or Possible Parent is not a member of any Native American tribe.

18. This Court has jurisdiction over the parties, the child, and subject matter of this action. This Petition has not been filed to circumvent the provisions of Chapter 50A, the Uniform Child Custody Jurisdiction and Enforcement Act.

WHEREFORE, Petitioner prays the Court that the parental rights of Calvin or Kevin or Any Unknown or Possible Parent to the minor child, [REDACTED], be terminated, and that Petitioner have such other relief as is just and proper.

This the 16 day of March, 2010.

HERRING MILLS & KRATT, PLLC



Donna A. Hart

NC State Bar No. 39132

Two Hannover Square, Suite 1860

Post Office Box 1677

Raleigh, North Carolina 27602

Telephone: (919) 821-1860

Attorney for Petitioner

VERIFICATION

E. Parker Herring, after being duly-sworn, deposes and says that she is a Director and authorized agent of the petitioner A Child's Hope, LLC, and that she has read the foregoing Petition for Termination of Parental Rights and knows the contents thereof; that the same are true of her own knowledge, except as to those matters and things therein stated upon information and belief, and as to those, she believes them to be true.

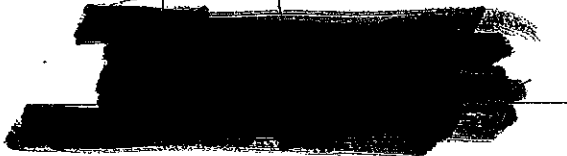
This the 16th day of March, 2010.

E. Parker

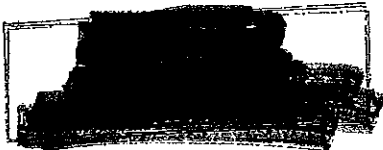
E. Parker Herring

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn to and subscribed before me this the
16th day of March, 2010.



My Commission Expires: 11-16-2013



STATE OF NORTH CAROLINA

CERTIFICATION OF VITAL RECORD

EXHIBIT

A

JEFF L. THIGPEN
GUILFORD COUNTY REGISTER OF DEEDS

Book 660 Page 39



2010900473

B 660 39

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NC VITAL RECORDS

CERTIFICATE OF LIVE BIRTH

Registration District No. 041-96 Local No.

BIRTH NO. -- 132

1. CHILD'S NAME (First, Middle, Last)

2. DATE OF BIRTH (Month, Day, Year)
January 9, 2010

3. TIME OF BIRTH
11:33 PM

4. SEX

Male

5. CITY, TOWN, OR LOCATION OF BIRTH

High Point

6. COUNTY OF BIRTH

Guilford

7. PLACE OF BIRTH

8. FACILITY NAME (Street and number)

9. FATHER'S NAME (First, Middle, Last)

10. DATE OF BIRTH (Month, Day, Year)

11. BIRTH PLACE (Place of birth only)

12. MOTHER'S NAME (First, Middle, Last)

13. DATE OF BIRTH (Month, Day, Year)

14. BIRTH PLACE (State or foreign country)

North Carolina

15a. USUAL RESIDENCE (STATE)

North Carolina

15b. COUNTY

Guilford

15c. CITY, TOWN, OR LOCATION

High Point

16. STREET AND NUMBER

16a. ZIP CODE

16b. INSIDE CITY LIMITS
(Yes or No)
Yes

16. MOTHER'S MAILING ADDRESS (If same as residence, enter "same")
SAME

17. I certify that this child was born on the date stated. Signature

17a. RELATION TO CHILD IF MOTHER CANNOT SIGN

17c. SOCIAL SECURITY NUMBER REQUESTED
(Yes or No) Yes

18a. I certify that this child was born on the date stated. Signature

18b. DATE SIGNED
(Month, Day, Year)
1/10/10

19. ATTENDANT'S NAME AND TITLE (If other than certifier) (Type/Print)

20. I certify that this child was born on the date stated. Signature

21. ATTENDANT'S MAILING ADDRESS (Street & Number or Rural Route & Number, City, Town, Zip Code)
601 N Elm ST High Point, NC 27261

22a. DATE REC'D BY LOCAL REG
1-11-10

22b. SIGNATURE OF REGISTRAR

Jeff L. Thigpen

23. DATE NAME ADDED

24. DATE AMENDED

25a. COLOR OR RACE OF FATHER (Specify White, Black, American Indian, etc.)

25b. COLOR OR RACE OF MOTHER (Specify White, Black, American Indian, etc.)
Black

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY WHICH APPEARS ON RECORD IN THE OFFICE OF REGISTER OF DEEDS, GUILFORD COUNTY, N.C. IN BOOK 660 PAGE 39. WITNESS MY HAND AND SEAL THIS 9th OF FEBRUARY, 2010.

JEFF L. THIGPEN, REGISTER OF DEEDS

BY: Robert L. [Signature]
ASSISTANT/DEPUTY REGISTER OF DEEDS





STATE OF NORTH CAROLINA

WAKE COUNTY

RELINQUISHMENT OF MINOR FOR ADOPTION BY PARENT OR GUARDIAN

I, [REDACTED], being duly sworn, declare:

1. That I was born on the 21st day of October, 1986, and have a permanent address at [REDACTED];

2. That I am of sound mind and in full possession of my mental faculties;

3. That I am the Mother of [REDACTED] (Original Name of Child)
(Mother) (Father) (Guardian)

a M child, born on the 9 day of January, 2009, [or expected to be born approximately
(Sex)]

[REDACTED] in High Point Guilford North Carolina
(City or Town) (County) (State)

4. That I hereby relinquish all rights to said child and surrender said child to [REDACTED]
[Director of Social Services in _____ County] or [Representative of A Child's Hope, LLC
a licensed child-placing agency], whose address is Two Hannover Square, Suite 1860, Raleigh, NC 27601
such release being a voluntary act on my part and without any demand on the part of the director of [social services]
[licensed child-placing agency];

5. That I voluntarily consent to the permanent transfer of legal and physical custody of said child to the agency for the purposes of adoption:

☒ with a prospective adoptive parent selected by the agency; or

☐ with a prospective adoptive parent selected by the agency and agreed upon by me, designated as:

6. That this Relinquishment shall be valid and binding and shall not be affected by any oral or separate written agreement between the agency and me;

7. That I understand that when the adoption is final, all of my rights and duties with respect to the minor will be extinguished and all other aspects of my legal relationship with the minor child will be terminated;

8. That I have not received or been promised any money or anything of value for the relinquishment of the minor except for lawful payments that are itemized on a schedule attached to this Relinquishment;

9. That I hereby waive notice of any proceeding for adoption;

10. That I have provided the agency with necessary background information or have signed releases that will permit the agency to compile the information required by G.S. 48-3-205;

11. That I have received or been offered an unsigned copy of this Relinquishment, been advised that counseling services are available through the agency to which the Relinquishment is given, and have been advised of the right to employ independent legal counsel;

12. ☒ That I understand that my Relinquishment to Adoption of the minor may be revoked within 7 days following the day on which it is executed, inclusive of weekends and holidays. If the final day of the period falls on a weekend or a North Carolina federal holiday, then the revocation period extends to the next business day.

☐ That I understand that this is my:

☐ second Relinquishment for placement with the same adoptive parent selected by the agency and agreed upon by me and is thereby irrevocable; or

☐ second Relinquishment for placement by the agency with any adoptive parent selected by the agency and is thereby irrevocable.

13. That I further understand that if my Relinquishment is for the placement of my child with a prospective adoptive parent selected by the agency and agreed upon by me and the adoption of my child by that prospective adoptive parent is not completed, I agree that pursuant to G.S. 48-3-704:

☐ That I will receive notice by the agency at my address listed above that the adoption will not be completed and I understand that my revocation period will be 10 days; or

☒ That I do not wish to receive notice by the agency that the adoption will not be completed and in the event of such an uncompleted adoption, I hereby consent to the adoption of my child with any prospective adoptive parent selected by the agency.

14. That I understand that to revoke my Relinquishment for Adoption, as provided in G.S. 48-3-706, the revocation must be made by giving written notice to the agency to which the Relinquishment was given. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the agency at the agency's address as given in the Relinquishment. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the agency at the agency's address as given in the Relinquishment. Forms to revoke my Relinquishment may be obtained from the Clerk of Superior Court in any county in North Carolina.

15. That I understand unless revoked in accordance with G.S. 48-3-706 or #13 above, my Relinquishment is final and irrevocable except under the circumstances set forth in G.S. 48-3-707.

243 North Point Ave., Apt. S, High Point, North Carolina 27262

Address

STATE OF NORTH CAROLINA

Guilford COUNTY

I, [REDACTED], do hereby certify
(Name of official)

that [REDACTED] personally appeared before me this day
Name of [Mother] [Father] [Guardian]

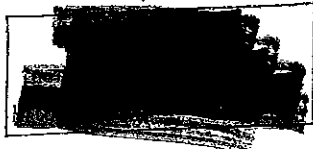
and acknowledged the due execution of the foregoing document and that this document has been sworn to (or affirmed) and subscribed before me. I further certify to the best of my knowledge and belief that the parent or guardian executing the Relinquishment: read, or had read to him or her, and understood the Relinquishment; signed the Relinquishment voluntarily; received or was offered a copy of the Relinquishment; and was advised that counseling services are available through agency to whom Relinquishment is given.

I certify that I, the undersigned, am a Notary Public or one otherwise empowered to administer oaths or take acknowledgments.

Witness my hand and seal this the 11 day of January, 2010,

at [REDACTED]
(Place of Relinquishment)

(SEAL)



Signature

[REDACTED]

Title

Notary Public

My commission expires September 3, 2013

NOTE:

Three DSS-1804 forms are signed. The original of this form is attached to the Consent to Adoption by Agency (DSS-1801) and sent with the Petition for Adoption to the Division of Social Services, State Department of Health and Human Services, by the Clerk of Superior Court. One copy of Form DSS-1804 is retained in the record of the county department of social services or licensed private child-placing agency. One copy is given to the parent or guardian relinquishing the child.



STATE OF NORTH CAROLINA

WAKE COUNTY

ACCEPTANCE OF RELINQUISHMENT OF MINOR FOR ADOPTION

BY PARENT OR GUARDIAN

WHEREAS, it appears to the undersigned, upon diligent inquiry and investigation:

That the child, [REDACTED], was born on the 9th day of January, 2010, [or expected to be born approximately 2009],
to [REDACTED] and Calvin or Kevin Doe
(Full name of mother) (Full name of father)

in Guilford County, State of North Carolina; that the [mother] [father] [guardian] has
a permanent address at [REDACTED]

WHEREAS, a Relinquishment for Adoption of the child to the undersigned was executed on the 11 day of January, 2010, at [REDACTED]

NOW, THEREFORE, the undersigned hereby accepts the Relinquishment of Minor for Adoption by the:

☒ Mother ☐ Father ☐ Guardian of said child.

This the 11 day of January, 2010.

Director of Social Services or Authorized Representative of _____ County

A Child's Hope, LLC

Licensed child-placing agency

by [REDACTED]

Signature/Title

Two Hannover Square, Suite 1860, Raleigh, North Carolina 27601

Address

Note:

G.S. 48-3-702 requires an agency that accepts a Relinquishment to furnish each parent or guardian who signs a Relinquishment a letter or other writing indicating the agency's willingness to accept the Relinquishment. This Acceptance form fulfills this requirement. In the event this form cannot be signed and provided to the parent or guardian at the time the Relinquishment is signed, another writing to the same effect must be signed and provided.



STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 09 SP _____

AFFIDAVIT OF _____

I, the undersigned, _____, being duly sworn, do depose and say:

1. I am the mother of _____ who was born on the
9 day of January, ²⁰¹⁰ ~~2009~~, in High Point, Guilford County, State of North Carolina. I
am over the age of 18 and I am of sound mind. I have a permanent address of _____

2. On January 11, 2010, I surrendered custody of my infant child to A
Child's Hope, LLC and executed a relinquishment, pursuant to G.S. § 48-3-701 *et. seq.*, for
purposes of placing the baby for adoption with a family selected by the agency.

3. This child was conceived on or about February 28, 2009 in Durham, North
Carolina. My girlfriend and I were attending a motel party at the Red Roof Inn on Hwy 54 in
Durham.

4. I believe the man known to me only as Calvin or Kevin (hereinafter "Calvin or
Kevin Doe") is the biological father of this child.

5. I first met Calvin or Kevin Doe in February 28, 2009. We had a one time sexual
encounter that resulted in my becoming pregnant with this child. I haven't seen or heard from
Calvin or Kevin Doe since that night.

6. I first discovered I was pregnant in May of 2009. I wasn't feeling well so I took a
home pregnancy test which came back positive.

7. Calvin or Kevin Doe is not aware of the pregnancy or the adoption plan. I have
not had contact with him since the time of conception.

8. Calvin or Kevin Doe is a African American male who is approximately 24-28 years old, 6'0" tall, medium build, dark complexion with black hair and brown eyes.

9. I have not had a sexual relationship with anyone other than Calvin or Kevin Doe in the month before or after the time of conception on February 28, 2009.

10. I and this child have been living separate and apart from Calvin or Kevin Doe or any other potential birth fathers of this child.

11. I am not now, nor ever have I ever been, married to the individual known to me as Calvin or Kevin Doe. I have not been married to any person at any time since this child was conceived and the time of signing this affidavit.

12. Neither Calvin or Kevin Doe, nor any other potential father of this child has offered or provided me with financial support, support with medical expenses and other tangible means of support during this pregnancy.

13. Neither Calvin or Kevin Doe, nor any other potential birth father(s) of this child has or have communicated or attempted to communicate with me during my term of pregnancy.

14. To the best of my knowledge, I do not have Native American Heritage in my family. I am not eligible for membership in any federally recognized Native American tribe.

15. To the best of my knowledge, neither Calvin or Kevin Doe, nor any potential father(s) of this child is in service on active duty with any branch of the United States Armed Services or Coast Guard.

16. I am not emotionally or financially prepared to provide any emotional or financial support for this child and I believe that it is in the best interest of this child that he is adopted and that any potential birth father's rights be terminated.

17. North Carolina is the home state of this child. I have not participated as a party in any action concerning custody of the minor child in this or any other jurisdiction. I have no information of any custody proceedings concerning the minor child pending in a court of this or

any other state. I know of no person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the minor child.

18. Having been duly sworn, I do depose and say that I am the Affiant named above.

I have read the foregoing and the same is true of my own personal knowledge.

This the 11 day of January, ^{2010 RW}~~2009~~.

[REDACTED]

STATE OF NORTH CAROLINA
COUNTY OF Guilford

I, [REDACTED] notary public for said county and state certify that [REDACTED] personally appeared before me this day and acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

This the 11 day of January, ²⁰¹⁰~~2009~~.

[REDACTED]
Official Signature of Notary

(OFFICIAL SEAL)

[REDACTED]

[REDACTED]

My Commission Expires: September 3, 2013



North Carolina Department of Health and Human Services
Division of Social Services

325 North Salisbury Street • Raleigh, North Carolina 27603

Courier # 56-20-25

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Sherry S. Bradsher, Director
(919) 733-3055

IN THE MATTER OF

[REDACTED]
b. 1/9/10

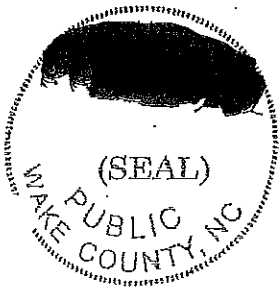
I, the undersigned administrator of the Central Registry maintained in the Adoption Services Unit, Child Welfare Services Section of the Division of Social Services, North Carolina Department of Health and Human Services, with respect to the paternity of the above child pursuant to G.S. 7B-1111 (5)(a), do hereby certify that:

(X) No Affidavit of Paternity has been received from any person acknowledging paternity or purporting to be the father of the above child to our office. This does not include any Affidavit of Paternity on file with Department of Vital Records, Child Support Enforcement or the Clerk of Court.

N. C. DEPARTMENT OF HEALTH & HUMAN SERVICES
DIVISION OF SOCIAL SERVICES

By [REDACTED]

Subscribed and sworn to before me this 15th day of March, 2010



[REDACTED]
Wake County, North Carolina

Commission Expires: 01-11-2012

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 10 JT _____



AFFIDAVIT OF
CIVIL RECORD SEARCH

[REDACTED] being first duly sworn, deposes and says that:

1. I am employed by Herring Mills & Kratt, PLLC [REDACTED]

2. On February 23, 2010, I conducted a search of the indices to civil actions in North Carolina through Courtsearch.com which obtains its information from the Administrative Office of the Courts for North Carolina for the birth mother in this action by searching the name [REDACTED] and found that no records were indexed by that name relating to the minor child in this action as evidenced by the printout attached hereto as Exhibit A.

3. On February 23, 2010, I conducted a search of the indices to civil actions in North Carolina through Courtsearch.com which obtains its information from the Administrative Office of the Courts for North Carolina for the child in this action by searching the name [REDACTED] and found that no records were indexed by that name relating to the minor child in this action as evidenced by the printout attached hereto as Exhibit B.

4. On February 23, 2010, I conducted a search of the indices to civil actions in North Carolina through Courtsearch.com which obtains its information from the Administrative Office of the Courts for North Carolina for the adoption agency in this action by searching the name: "A Child's Hope" and found that no records were indexed by that name relating to the minor child in this action as evidenced by the printout attached hereto as Exhibit C.

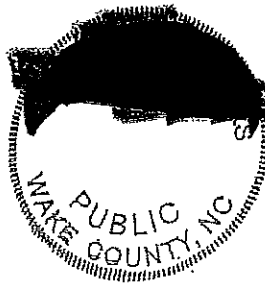
This the 23rd day of February, 2010.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn to and subscribed before me this the
23rd day of February, 2010.

[REDACTED]
NOTARY PUBLIC

Typed or Printed Name of Notary Public
My Commission Expires: 4-30-2014



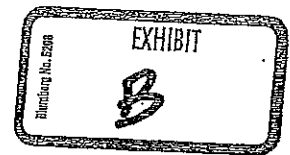
Civil Cases



Name: Jones, Joyce, Monique, County: ALL.
Tue Feb 23 11:00:31 EST 2010

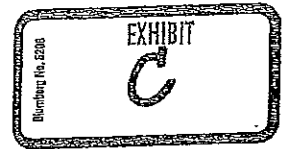
Submit Query	CIVIL CASE PROCESSING SYSTEM	02/23/10 10:59:37
NO ACC DES	PARTIES INDEX	
ALL	IN RESPONSE TO	CNTY FILE NUM S
PARTY		
Submit Query		

Civil Cases



Name: Jones, Ky'Mani, Marcus, County: ALL
Tue Feb 23 11:01:14 EST 2010

<input type="button" value="Submit Query"/>	
DC AOC CIS	CIVIL CASE PROCESSING SYSTEM 02/23/10 11:03:20
ALL	PARTIES INDEX
PARTY	IN REGIONS TO CPTY FILE NUM 8
<input type="button" value="Submit Query"/>	



Name: a Child's Hope, County: ALL
Tue Feb 23 11:02:02 EST 2010

Submit Query		CIVIL CASE PROCESSING SYSTEM	02/23/10 11:01:07
NO ACT DIS	PARTIES INDEX	IN RECORDS TO	CNTY FILE NUM S
ALL			
PARTY			
<input type="radio"/> CHILD A CHILD'S HOPE			WAKE 01SE 1902 P
<input type="radio"/> CHILD A CHILD'S HOPE			+ WAKE 06CVD4240
<input type="radio"/> CHILD A CHILD'S HOPE ALDELLON AGENT			GASTO 08CV01902 P
<input type="radio"/> CHILD A CHILD'S HOPE CASE FOUNDATION			WAKE 08SP 1351 P
<input type="radio"/> CHILD A CHILD'S HOPE LTD			WAKE 08SP 1100 P
<input type="radio"/> CHILD A CHILD'S HOPE LTD			WAKE 08CP 5103 P
Submit Query			

FILED

STATE OF NORTH CAROLINA 2010 MAR 25 AM 10:15 THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

DISTRICT COURT DIVISION
WAKE COUNTY, C.S.C. FILE NO. 10 JT 90

BY: _____

)
)
)
MOTION TO PERMIT SERVICE OF
PROCESS BY PUBLICATION

Petitioner, A Child's Hope, LLC, hereby moves the Court pursuant to N.C.G.S. §7B-1105(d) for an order permitting service of process by publication and respectfully shows the Court:

1. [REDACTED] is the mother of the minor child who is the subject of this action.

2. The name of the child as it appears on the child's birth certificate is [REDACTED].
[REDACTED] He was born on January 9, 2010, in High Point, Guilford County, North Carolina.

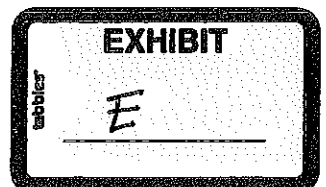
3. In her Affidavit, which has been previously filed with the Court and incorporated herein by reference, [REDACTED] identifies a man known to her only as "Calvin or Kevin" as the biological father of this child.

4. The whereabouts of Calvin or Kevin is unknown. [REDACTED] states that they had a one time sexual encounter that resulted in this pregnancy. She states that she has not seen or heard from Calvin or Kevin since the night of conception.

5. [REDACTED] indicates that conception took place on or about February 28, 2009 at the Red Roof Inn on Highway 54 in Durham, North Carolina.

6. Paternity of this child has not been determined judicially or by scientific means.

7. The whereabouts of the Respondents Calvin or Kevin or Any Unknown or Possible Parent is not known and cannot with the exercise of due diligence be determined.



8. No person has filed an affidavit of paternity of the child, pursuant to N.C.G.S. §7B-1111(a)(5), as shown by the sworn statement from the North Carolina Department of Health and Human Services Division of Social Services which is attached to the Petition for the Termination of Parental Rights filed March 22, 2010, as Exhibit E.

9. Paternity of this child has not been determined judicially, as shown by the Affidavit of Civil Record Search, which is attached to the Petition for the Termination of Parental Rights filed March 22, 2010, as Exhibit F. Petitioner has conducted a search of the public records in North Carolina for any civil action relating to the child who is the subject of this action and found no record which appeared to relate to the child who is the subject of this action.

10. Respondents, Calvin or Kevin or Any Unknown Parent or Possible Parent, are persons who cannot with due diligence be served by personal delivery, registered or certified mail, or a designated delivery service authorized pursuant to 26 U.S.C. §7502(f)(2).

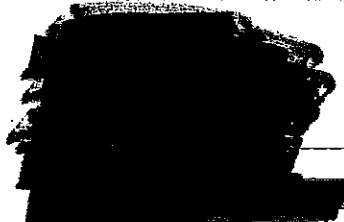
11. Respondents may best be served with process and notice of this action by publication of a notice in a newspaper in the area of Durham County, North Carolina in the form required by N.C.G.S. §§1A-1, Rule 4(j)(1), 7B-1105 and 48-2-401 as attached hereto.

12. The *Herald Sun* is a newspaper that is qualified for legal advertising in accordance with N.C.G.S. §§1-597 and 1-598 and circulated in the Durham County, North Carolina area.

WHEREFORE, Petitioner moves the Court to enter an order allowing Petitioner to publish a notice of this proceeding in the form attached hereto in the *Herald Sun*, a publication qualified for publication of legal notices in wide circulation in the vicinity of Durham County, North Carolina the area in which the child was conceived and the last known area of Respondents.

This the 15 day of March, 2010.

HERRING MILLS & KRATT, PLLC



Two Hannover Square, Suite 1860
Post Office Box 1677
Raleigh, North Carolina 27602
Telephone: (919) 821-1860
Attorney for Petitioner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 10 JT 90

150 111 51 7 3 21
ORDER ALLOWING MOTION TO PERMIT
SERVICE BY PUBLICATION

This matter came before the undersigned upon the motion of Petitioner, A Child's Hope, LLC, in the above-entitled action pursuant to N.C.G.S. §7B-1105(d) for an order permitting service of process by publication upon Respondents, Calvin or Kevin or Any Unknown or Possible Parent. The Court having reviewed the pleadings filed in this action and having heard the arguments of counsel makes the following findings of facts:

FINDINGS OF FACT

1. [REDACTED] the mother of the minor child who is the subject of this action.
2. The name of the child as it appears on the child's birth certificate is [REDACTED]
[REDACTED] He was born on January 9, 2010, in High Point, Guilford County, North Carolina.
3. Conception took place on or about February 28, 2009, at the Red Roof Inn on Highway 54 in Durham, North Carolina.
4. [REDACTED] identified a man known to her only as "Calvin or Kevin" as the biological father of this child.
5. [REDACTED] was not married at the time that this child was born or within the ten months immediately preceding the birth of this child.
6. Paternity of this child has not been determined judicially or by scientific means.
7. No person has filed an affidavit of paternity of the child, pursuant to N.C.G.S. §7B-1111(a)(5).

8. Paternity of this child has not been determined judicially, as shown by the Affidavit of Civil Record Search previously filed with the Court. Petitioner has conducted a search of the public records in North Carolina for any civil action relating to the child who is the subject of this action and found no record which appeared to relate to the child who is the subject of this action.

CONCLUSIONS OF LAW

1. Respondents, Calvin or Kevin or Any Unknown or Possible Parent, are persons who cannot with due diligence be served by personal delivery, registered or certified mail, or a designated delivery service authorized pursuant to 26 U.S.C. §7502(f)(2).

2. Respondents may best be served with process and notice of this action by publication of a notice in a newspaper in the Durham County, North Carolina area in the form required by N.C.G.S. §§1A-1, Rule 4(j)(1), 7B-1105 and 48-2-401 as attached hereto.

3. The *Herald Sun* is a newspaper that is qualified for legal advertising in accordance with N.C.G.S. §§1-597 and 1-598 and circulated in Durham County, North Carolina.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Petitioner shall serve Respondents, Calvin or Kevin or Any Unknown or Possible Parent, with process and notice of this action by publication of a notice in the form attached hereto in the *Herald Sun*, a publication qualified for publication of legal notices in wide circulation in the vicinity of Durham County, North Carolina.

This the 31 day of March, 2010.


DISTRICT COURT JUDGE PRESIDING

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION COUNTY OF WAKE FILE NO. 10 JT 90 TO: Calvin or Kevin or Any Unknown Parent or Possible Parent RE: Baby Boy Doe, a minor child. Take notice that an action has been commenced against you in the above referenced court file to terminate your parental rights to a male child born January 9, 2010, in High Point, Guilford County, NC to [REDACTED]. [REDACTED] is a 23 year old African American female, 5'5", black hair, brown eyes, fair complexion and weighs approximately 150 lbs. Calvin or Kevin is described as an African American male between 24 and 27 years old. He is 6'0", black hair, brown eyes, dark complexion and a medium build. The child was conceived in the vicinity of Durham County, NC on or around February 28, 2009 at the Red Roof Inn off of Hwy. 54. If you want a lawyer and cannot afford one, the Court will appoint one for you. You should contact the Clerk of Superior Court to request appointed counsel. If you are represented by a lawyer appointed previously in an abuse, neglect or dependency case, that lawyer will continue to represent you unless the Court orders otherwise. [REDACTED], Raleigh, NC 27612, 919-573-1895, has been appointed as provisional counsel to represent Calvin or Kevin. You are entitled to attend any hearing affecting your parental rights. The date, time and place of any pretrial hearing pursuant to G.S. 7B-1108.1 and the hearing on the petition will be mailed by the clerk upon filing of the answer. The purpose of the hearing and notice is to terminate your parental rights. In order to participate in and receive further notice of the proceeding, including notice of the time and place of any hearing in this matter, you must file a response to the petition with the Clerk of Superior Court within forty (40) days of service or on or before _____, 2010. In the event that you fail to respond, provisional counsel will be released and petitioner will seek an order terminating your parental rights. You should provide a copy of any response to the attorney for the Petitioner at: Bobby D. Mills, PO Box 1677, Raleigh, NC 27602, (919) 821-1860.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

FILED

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

2010 MAY 11 PM 3:27

FILE NO.: 10 JT 90

WAKE COUNTY, C.S.C.

BY: _____

AFFIDAVIT OF SERVICE BY

PUBLICATION REQUIRED BY RULE 4(j1)

and RULE 4(j2) (3)

_____ being first duly sworn, deposes and says that:

Service of process by publication has been completed on the Respondents Calvin or Kevin or Any Unknown Parent or Possible Parent. This affidavit is filed pursuant to the requirements of Rule 4(j1) and Rule 4(j2)(3).

1. Publication of notice of service of process was done pursuant to the requirements of G.S. 1-75-10(2) as shown by the attached publisher's affidavit.

2. *The Herald Sun* is the newspaper most likely to give actual notice to the party served, and is qualified for legal advertising in accordance with G.S. § 1-597 and G.S. § 1-598.

3. The post office address of the person to be served is not known and cannot be ascertained with reasonable diligence.

4. The use of service by publication was warranted because the party served by publication could not with due diligence have been served by personal delivery or registered or certified mail due to the following circumstances:

- a. In her affidavit _____ identifies a man known to her only as "Calvin or Kevin" as the biological father of this child.
- b. The whereabouts of Calvin or Kevin is unknown. _____ states that they had a one time sexual encounter that resulted in this pregnancy. She states that she has not seen or heard from Calvin or Kevin since the night of conception.
- c. _____ indicates that conception took place on or about February 28, 2009 at the Red Roof Inn on Highway 54 in Durham, North Carolina.
- d. The full identity and whereabouts of the Respondents Any Unknown Parent or Possible Parent is unknown and cannot with the exercise of due diligence be determined.

EXHIBIT


F


5: The information regarding the location of the person served used in determining the area in which service by publication was printed is that Guilford County, North Carolina was the area in which conception occurred.

This the 11th day of May, 2010.

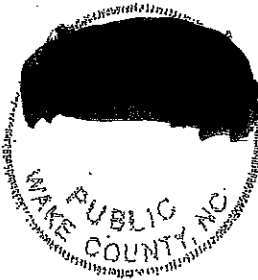
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn to and ascribed before me this the
11th day of May, 2010.


Official Signature of Notary Public


Notary's printed or typed name

My commission expires: 4-30-2014



AFFIDAVIT OF PUBLICATION

State of North Carolina
County of Durham

[REDACTED], being duly sworn, says that she is the Principal Clerk of PMG, LLC, doing business as The Herald-Sun, a newspaper published in and of general circulation in said County, and that a notice of which the annexed is a True Copy, was published in said newspaper one time each week for 3 successive weeks beginning on the 7th day of April, 2010.

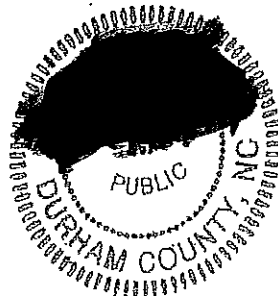
[REDACTED]

Sworn to and subscribed before me this 22nd day of April, 2010.

[REDACTED]

(Notary Public)

My Commission Expires: 8/15/14
Durham County, North Carolina



STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION
COUNTY OF WAKE FILE NO. 10 JT 90 TO: Calvin or Kevin or Any Unknown Parent or Possible Parent RE: Baby Boy Doe, a minor child. Take notice that an action has been commenced against you in the above referenced court to terminate your parental rights to a male child born January 9, 2010, in High Point, Guilford County, NC to [REDACTED] and [REDACTED]. Mrs. Jones is a 23-year old African American female, 5'5", black hair, brown eyes, fair complexion and weighs approximately 150 lbs. Calvin or Kevin is described as an African American male between 24 and 27 years old. He is 6'0", black hair, brown eyes, dark complexion and a medium build. The child was conceived in the vicinity of Durham County, NC on or around February 28, 2009 at the Red Roof Inn off of Hwy. 84. If you want a lawyer and cannot afford one, the Court will appoint one for you. You should contact the Clerk of Superior Court to request appointed counsel. If you are represented by a lawyer appointed previously in an abuse, neglect or dependency case, that lawyer will continue to represent you unless the Court orders otherwise. Richard Durham, 3737 Glenwood Ave., Ste. 100, Raleigh, NC 27612, 919-573-1865, has been appointed as provisional counsel to represent Calvin or Kevin. You are entitled to attend any hearing affecting your parental rights. The date, time and place of any pretrial hearing pursuant to G.S. 7B-1105.1 and the hearing on the petition will be mailed by the clerk upon filing of the answer. The purpose of the hearing and notice is to terminate your parental rights. In order to participate in and receive further notice of the proceeding, including notice of the time and place of any hearing in this matter, you must file a response to the petition with the Clerk of Superior Court within forty (40) days of service or on or before May 17, 2010. In the event that you fail to respond, provisional counsel will be released and petitioner will seek an order terminating your parental rights. You should provide a copy of any response to the attorney for the Petitioner at Bobby D. Mills, PO Box 1577, Raleigh, NC 27602, (919) 521-1860.
H-S April 7, 14, 21, 2010

From: A Child's Hope
Sent: Thursday, April 15, 2010 11:44 AM
To: Bobby Mills; Parker Herring
Cc: A Child's Hope; [REDACTED]
Subject: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford
Importance: High

Received phone call from a [REDACTED] asking what he needs to do. He thinks he is the father of a baby placed for adoption recently and birthmother [REDACTED] (Note his last name!!!)

His phone number is [REDACTED]

He would like to know what he needs to do.

From: A Child's Hope
Sent: Thursday, April 15, 2010 11:49 AM
To: A Child's Hope; Bobby Mills; Parker Herring
Cc: [REDACTED]
Subject: RE: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

I just called him back and they **ARE NOT MARRIED**. (I asked)
I wanted to let him know that the directors are not in right now but I was forwarding his message.

He lives in Bahama NC.

From: Parker Herring
Sent: Thursday, April 15, 2010 11:50 AM
To: A Child's Hope; [REDACTED]
Subject: RE: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

[REDACTED] did we notice him and is that why he is calling now?

From: [REDACTED]
Sent: Thursday, April 15, 2010 11:52 AM
To: Parker Herring
Cc: A Child's Hope
Subject: RE: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

The publication just ran for the second time yesterday. Most likely, he saw the Notice.

From: Bobby Mills
Sent: Thursday, April 15, 2010 1:28 PM
To: A Child's Hope; Parker Herring
Cc: [REDACTED]



Subject: RE: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

[REDACTED] should call [REDACTED] and find out who [REDACTED] is and why he is calling us since she identified Calvin or Kevin and swore that she was not with anyone else.

From: [REDACTED]

Sent: Thursday, April 15, 2010 2:05 PM

To: Bobby Mills; A Child's Hope; Parker Herring

Cc: [REDACTED]

Subject: Re: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

I will call BM and report back.

From: [REDACTED]

Sent: Thursday, April 15, 2010 3:01 PM

To: Bobby Mills; A Child's Hope; Parker Herring

Subject: Re: CALL FROM POTENTIAL BF - [REDACTED] 23, AA, Born 1/9/10, Boy, High Point, Guilford

[REDACTED] called bm to first let her know that pictures and update are going to be mailed today [REDACTED] let her know that we had a call from a young man saying that he could possibly be the BF, without telling the name given [REDACTED] asked what was his name again. BM was stunned and then said Michael or something like that. BM then could not recall the name given [REDACTED] reminded her that it was Calvin or Kevin. BM confirmed that she met him in Durham and that she has not had contact with him nor was there another possible bf. [REDACTED] also asked did anyone who knows him, contact him about the baby, etc. BM stated that she did not know anyone who would contact him. AC kept the conversation very brief and did not share any other information at this time.

Sent from my Verizon Wireless BlackBerry

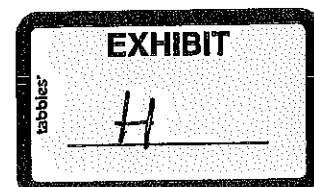
From: [REDACTED]
Sent: Wednesday, April 21, 2010 8:11 AM
To: [REDACTED] A Child's Hope
Cc: Parker Herring; Bobby Mills; [REDACTED]
Subject: Re: [REDACTED]

BM finally responded to [REDACTED] by sending a text that said, "I have made some BIG mistakes. And I want [REDACTED] to be able to have his son." After the text, [REDACTED] called Supervisor and then called BM back but she did not answer. [REDACTED] left a brief message. [REDACTED] then sent BM a text back and asked if she would be more comfortable communicating by text? BM responded, "yes at least right now."

Through communicating with BM, BM said that she and [REDACTED] were in a relationship and did live together for about six months or maybe a little longer (October 2008- April 2009). They lived in Durham and she had been laid off from her job right after she moved in. [REDACTED] paid the bills and at the time worked for [REDACTED]. BM and [REDACTED] were together at Duke Hospital when she found out she was pregnant which she reports was in March or April. There were no other appointments after that. She said that they had a decent relationship and they parted ways because he knew she was pregnant and she told him she had an abortion. She stated that was her plan but it didn't happen. She then moved and he contacted her to ask if she really had an abortion. She said yes and they then lost contact for a while.

BM reports that [REDACTED] now works at [REDACTED].

BM wanted to know what happens now. [REDACTED] just responded by saying, "I really don't know because now this a major legal issue that the directors will have to determine the next steps." BM then asked "Is this a situation where I will be in trouble for whatever reason?" [REDACTED] responded by just saying, "I am not sure the Directors/Lawyers will have to provide information related to the legal aspect and will contact you if needed." [REDACTED] ended the conversation by asking BM if it was ok for [REDACTED] to contact her if there are additional questions or other information needed and BM said that would be okay.



HERRING MILLS & KRATT

for your life

Bobby D. Mills
bmills@foryourlife.com

April 23, 2010

Re: Adoption of Baby Boy Doe
Wake County Case No.: 10 SP 364

Dear [REDACTED]

We represent the adoptive parents in the proposed adoption of a child, born January 9, 2010, to [REDACTED] as identified you as the biological birth father of that child.

We are requesting your cooperation in consenting to this proposed adoption. By consenting to the adoption, you will be relieved of all legal rights and obligations, including any obligation for child support.

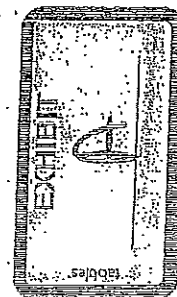
If you agree with this adoption, please review and execute the following documents:

Relinquishment of Minor for Adoption by Parent or Guardian: Enclosed are four originals of a Relinquishment of Minor for Adoption by Parent or Guardian. Please fill in all blanks and sign all four originals of this form before a notary public and return three of the originals to this office as soon as possible using the enclosed self-addressed, prepaid envelope. Please keep the remaining executed original for your records.

Affidavit of Parentage: Also enclosed are two originals of an Affidavit of Parentage. Please sign the two originals of this form before a notary public and return them to this office as soon as possible using the enclosed self-addressed, prepaid envelope.

Health History/Non-Identifying Background Information: Enclosed is a two-part health history form containing a Non-identifying Background Information and Adoption Health History Part I & II. Please complete each of these forms to the best of your knowledge and sign each of these forms before a notary public and return them to this office using the enclosed self-address, prepaid envelope.

Indian Child Welfare Act Affidavit and Power of Attorney: Enclosed are two originals of an Indian Child Welfare Act Affidavit and Power of Attorney. Please complete this form



Herring Mills & Kratt PLLC
100 South Main Street, Suite 1800 Raleigh, NC 27601
919.821.1800 fax 919.821.1816
www.foryourlife.com

E. Parker Herring
Bobby D. Mills
E. William Kratt

Mary Ann Dalton

Kelly E. Thompson
James P. West

Board Certified Specialist in Family Law
Member American Academy of Adoption Attorneys
Board Certified Specialist in Estate Planning and Probate Law
Member National Academy of Elder Law Attorneys
ADR - Certified Family Financial Mediator
DRG - Certified Estate & Guardianship Mediator
NC Council

EXHIBIT

I

and execute it before a notary public and return it to this office in the enclosed self-addressed, prepaid envelope.

If you do not oppose the adoption, but do not acknowledge that these are your children, please sign the enclosed Denial of Paternity form which will require no further action on your part.

Denial of Paternity: Enclosed are two originals. Please sign the two originals of this form before a notary public and return them to this office as soon as possible using the enclosed self-addressed, prepaid envelope.

In addition, we are seeking your cooperating in providing a DNA sample to be used to establish paternity of this child. Our firm has made arrangements with Paternity Testing Corporation for you to contact them to arrange an appointment to provide a DNA sample. This is a non-invasive procedure that usually takes 5-10 minutes. Please contact [REDACTED] to arrange an appointment. Please provide her your name and the name of the birth mother. [REDACTED] when you call.

Your cooperation in this matter is greatly appreciated. Please call me if you have any questions about the execution of these documents or if you do not intend to consent to the adoption of this child. If I am not available, please ask for my paralegal [REDACTED].

Very truly yours,

(B) 11/5

Bobby D. Mills

BDM/tl
ENCLOSURES

STATE OF NORTH CAROLINA

WAKE

County

File No. 10 SP 364

Film No.

In the General Court of Justice
Superior Court Division Before The Clerk

IN THE MATTER OF THE ADOPTION OF:

In re: Baby Boy Doe, a minor child

Name of Respondent(s)

NOTICE

G.S. 1-394; 48-2-401

To Each Of The Respondent(s) Named Below:

Name And Address Of Respondent 1

Name And Address Of Respondent 2

A Special Proceeding Has Been Commenced!

Take notice that a Special Proceeding has been commenced against you in the above referenced court and file. The Petitioners are seeking to adopt a male child who was born on January 9, 2010 in High Point, Guilford County, North Carolina to [REDACTED]

In order to participate in and receive further notice of the proceeding, including notice of the time and place of any hearing in this matter, you must prepare and file with the Clerk of Superior Court a response within thirty (30) days after service of this notice.

In the event you fail to respond, the Petitioners will seek a decree of adoption without further notice to you. The decree of adoption will terminate your parental rights to this child and divest you of all rights with respect to the child.

Name And Address of Petitioner's Attorney (If None, Address of Petitioner)

Bobby D. Mills
Two Hannover Square, Suite 1860
P.O. Box 1677
Raleigh, NC 27602
(919) 821-1860

Date

4/23/10

Signature

B. D. Mills

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

COUNTY OF WAKE

FILE NO. 10 SP 364

IN THE ADOPTION OF
BABY BOY DOE., A Minor Child

2010 DEC 30 P 4:23
WAKE COUNTY, CSC

AFFIDAVIT OF
SERVICE

[REDACTED], being first duly sworn, deposes and says that:

1. I am employed by Herring Mills & Kratt, PLLC as a paralegal.

2. On April 23, 2010, a Notice in the above-referenced adoption action was forwarded to the Respondent [REDACTED] by Federal Express, priority, overnight delivery, direct signature requested.

3. A Proof of Delivery was received indicating that the Notice had been received on April 24, 2010 pursuant to N.C.G.S. § 1A-1, Rule 4(j2)(2). A copy of the digital image of the signature of the recipient and the return receipt is attached hereto as Exhibit A.

This the 20th day of December, 2010.

[REDACTED]

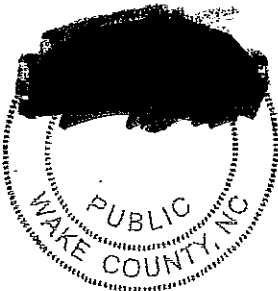
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn to and ascribed before me this the
20 day of December, 2010.

[REDACTED]
Official Signature of Notary Public

[REDACTED]
Notary's printed or typed name

My commission expires: 6/22/2014





FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600



December 14, 2010

Dear Customer:

The following is the proof-of-delivery for tracking number 798600749910.

Delivery Information:

Status:	Delivered	Delivery location:	211 GET A WAY LN
Signed for by:	[REDACTED]	Delivery date:	Apr 24, 2010 12:13
Service type:	Priority Overnight		

[Handwritten signature]

Shipping Information:

Tracking number:	798600749910	Ship date:	Apr 23, 2010
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Recipient:

Shipper:

HERRING MILLS
TWO HANNOVER SQUARE
SUITE 1860
RALEIGH, NC 27601 US
HMK - 210014.002

Reference

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service
1.800.GoFedEx 1.800.463.3339

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
COUNTY OF WAKE 2011 JAN 27 PM 2:34 FILE NO. 10 JT 90

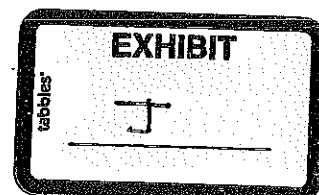
WAKE COUNTY, C.S.C.

ORDER GRANTING
BY MOTION FOR RELIEF
FROM JUDGMENT

This matter came before the undersigned District Court Judge on January 19, 2011, upon the motion of [REDACTED] pursuant to Rule 60 of the North Carolina Rules of Civil Procedure, for relief from an Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010. Petitioner was represented by Bobby D. Mills and E. Parker Herring, and [REDACTED] was present in court and was represented by [REDACTED]. No testimony was offered into evidence. Based upon the Court's examination of the matters of record and the representations and arguments of counsel, the Court makes the following:

FINDINGS OF FACT

1. Petitioner A Child's Hope, LLC is a business located in Wake County, North Carolina.
2. [REDACTED] is a citizen and resident of Durham County, North Carolina.
3. On January 9, 2010 [REDACTED] gave birth to the minor child in Guilford County, North Carolina.
4. In an affidavit filed as an attachment to the Petition to Terminate Parental Rights [REDACTED] asserted under oath that the biological father of her child was a man known to her only as Calvin or Kevin.
5. On January 20, 2010, the prospective adoptive parents filed a petition to adopt the minor child, Wake County file number 10 SP 364.
6. On March 22, 2010, Petitioner filed a Petition for the Termination of Parental Rights of Calvin or Kevin or Any Unknown or Possible Parent in Wake County District Court.
7. On March 31, 2010, an Order was signed by the Court permitting service of process by publication upon Calvin or Kevin or Any Unknown or Possible Parent. The Herald Sun was the forum of service of process by publication.



8. Petitioner published a notice of service of process by publication in The Herald Sun on April 7, 14, and 21, 2010. The Herald Sun is a newspaper of general circulation published in Durham County, North Carolina.

9. The notice identified [REDACTED] as the mother. The notice also provided a physical description of her as "a 23 year old African American female, 5'5", black hair, brown eyes, fair complexion and weighs approximately 150 lbs." The notice stated that the child was conceived in the vicinity of Durham County, NC on or around February 28, 2009. The notice in The Herald Sun listed a May 17, 2010 deadline to respond to the notice.

10. Per the assertions of counsel [REDACTED] initially told [REDACTED] that the child was still-born. In April 2010, [REDACTED] informed [REDACTED] that the minor child was alive and was placed with Petitioner.

11. Per the assertions of counsel, on or about April 15, 2010, [REDACTED] contacted Petitioner and informed the staff at Petitioner's office that he believed he was the biological father of the minor child, that he wanted custody of the minor child, and that he would not agree to an adoption of the minor child.

12. Per the assertions of counsel, Petitioner then communicated with [REDACTED] regarding the claim of [REDACTED]. [REDACTED] denied that [REDACTED] was the father, but identified "Michael" as a possible biological father.

13. Per the assertions of counsel, on or about April 20, 2010, [REDACTED] communicated with Petitioner and requested a paternity test.

14. Per the assertions of counsel, on or about April 21, 2010, Petitioner again communicated with [REDACTED]. At that time, [REDACTED] told Petitioner the [REDACTED] was the biological father of the minor child.

15. On April 21, 2010, the third publication of the notice of the termination proceeding appeared in the Herald Sun.

16. [REDACTED] as acknowledged residing in Durham County, North Carolina during the period of time when the notice appeared in the newspaper.

17. On or about April 23, 2010 counsel for Petitioner, who is also counsel for the adoptive parents in the adoption action, sent [REDACTED] notice of the adoption proceeding in 10 SP 364 along with a Relinquishment of Minor for Adoption by Parent or Guardian and requested that execute the relinquishment via Federal Express. [REDACTED] was served with this notice on April 24, 2010.

18. On April 26, 2010, [REDACTED] filed his objection and response to the adoption proceeding in 10 SP 364 and served it on Petitioner's counsel.

19. Petitioner's counsel, Bobby Mills of Herring Mill & Kratt represented the adoptive parents in 10 SP 364. Another attorney from Herring Mills & Kratt [REDACTED] represented Petitioner in the termination of parental rights hearing.

20. On or about April 21, 2010, counsel for Petitioner knew or should have known that [REDACTED] claimed to be the biological father of the child named the Petition to Terminate Parental Rights and that [REDACTED] supported this claim. Petitioner did not attempt to personally serve [REDACTED] with the Petition to Terminate Parental Rights or send him a copy of the publication notice and/or the Petition to Terminate Parental Rights.

21. On May 11, 2010, counsel for Petitioner filed an Affidavit of Service by Publication Required by N.C.G.S. §1A-1, Rule 4(j1) and Rule 4(j2)(3) [REDACTED] a paralegal with Petitioner's counsel's office, was the affiant.

22. The May 11, 2010 Affidavit states that, "The post office of the person to be served is not known and cannot be ascertained with reasonable diligence." The Affidavit also states that, "The full identity and whereabouts of the Respondents Any Unknown Parent or Possible Parent is unknown and cannot with the exercise of due diligence be determined."

23. The assertions in the May 11, 2010 Affidavit detailed above are true as to Calvin or Kevin or other unknown or possible parents, but are not true as to [REDACTED]
[REDACTED]

24. Petitioner's counsel did not send [REDACTED] notice of the May 26, 2010 hearing.

25. On May 26, 2010, this Court held a hearing on Petitioner's Petition for the Termination of Parental Rights of Calvin or Kevin or Any Unknown or Possible Parent.

26. At the May 26, 2010 hearing, Petitioner's counsel did not inform the Court that [REDACTED] had come forward as the minor child's biological father or that Petitioner had been told by [REDACTED] that [REDACTED] was the biological father of the minor child

27. Without this knowledge, on May 26, 2010, this Court entered an Order Allowing Petition for the Termination of Parental Rights. The Order states that, "the parental rights of Respondents, Calvin or Kevin or Any Unknown or Possible Parent, of the minor child are terminated."

28. No copy of the May 26, 2010 Order was mailed to [REDACTED]

29. Per the assertions of counsel, genetic marker testing completed after May 26, 2010 indicates that [REDACTED] the biological father of the minor child.

30. Per the assertions of counsel, Mr. Mills, counsel for Petitioner, has previously argued in proceedings involving the same individuals in this matter, (i.e., the adoption action in Wake County file number 10 SP 364 and the custody action in Wake County file number 10 CVD 16180), that the May 26, 2010 Order should be applied to [REDACTED]

31. After reviewing all of the documents related to this matter, Petitioner's counsel does not believe that the May 26, 2010 Order should be applied to [REDACTED]

32. It appears from the pleadings that Mr. Mills primarily worked on the adoption action and that Donna Hart primarily worked on the termination of parental rights action. Petitioner's counsel credits the mistakes made in this proceeding that resulted in the May 26, 2010 order being applied to [REDACTED] to the fact that two different attorneys worked on different aspects of this matter. Petitioner's failure to notify the Court in this proceeding about [REDACTED] as the result of a failure to communicate between the attorneys for Petitioner. No evidence of fraud or intentional misconduct has been presented to the Court.

33. Petitioner and counsel for Petitioner are accountable for these mistakes and for not notifying the Court at the May 26, 2010 hearing that [REDACTED] claimed to be the biological father of the minor child.

34. If it was Petitioner's intent for the Order Allowing Petition for the Termination of Parental Rights to apply to [REDACTED] he should have been either personally served with the Petition for the Termination of Parental Rights as required by N.C.G.S. §1A-1, Rule 4. He should also have been served with notice of the May 26, 2010 hearing. If he had been served with the Petition as required by N.C.G.S. §1A-1, Rule 4 [REDACTED] would have had the opportunity to file pleadings in this matter and/or attend the hearing on May 26, 2010.

35. [REDACTED] is entitled to relief as provided in Rule 60(b)(1) due to the mistake, inadvertence, and/or excusable neglect of Petitioner's counsel.

36. Since [REDACTED] alleged that the biological father of her child was Calvin or Kevin, persons whose full identities and whereabouts were not known to her and since these persons were properly served in this matter, the Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 should remain in full force and effect as to the parental rights of Calvin or Kevin or Any Unknown or Possible Parent, but not [REDACTED]

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter of this action.

2. The Findings above are incorporated herein to the extent that they represent conclusions of law.

3. [REDACTED] entitled to relief as provided in Rule 60(b)(1) due to the mistake, inadvertence, and/or excusable neglect of Petitioner's counsel.

4. The Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 should remain in full force and effect as to the parental rights of Calvin or Kevin or Any Unknown or Possible Parent, but not [REDACTED]

IT IS THEREFORE ORDERED THAT:

1. [REDACTED] Motion for Relief from the Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010, pursuant to Rule 60(b)(1) of the North Carolina Rules of Civil Procedure, is granted.

2. [REDACTED] is relieved of the effect of the Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010. The Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 does not apply to [REDACTED]. As to [REDACTED] the May 26, 2010 Order is void *ab initio*. Petitioner and counsel for Petitioner are hereby estopped from asserting that the Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 applies to [REDACTED] any other court actions. [REDACTED] entitled to use this Order as an affirmative defense to any claims that his parental rights have been terminated.

3. The Order Allowing Petition for the Termination of Parental Rights entered on May 26, 2010 remains in full force and effect as to the parental rights of Calvin or Kevin or Any Unknown or Possible Parent, but not [REDACTED]

This the 26th day of January, 2011, *nunc pro tunc* to January 19, 2011.



The Honorable Monica M. Bousman, District Court Judge Presiding

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 10 JT 90

IN RE K.M.J., A MINOR CHILD

CERTIFICATE OF SERVICE

I, [REDACTED] do hereby certify that on this date a copy of the foregoing document ORDER GRANTING [REDACTED] MOTION FOR RELIEF was served on the following counsel first class mail to the following address:

Bobby D. Mills
Herring Mills & Kratt, PLLC
P.O. Box 1677
Raleigh, NC 27602

This the 28th day of January, 2011.

[REDACTED]